



Foundation Action

The bi-monthly newsletter
of the National Right to Work
Legal Defense Foundation, Inc.

Vol. XLIV, No. 2

8001 Braddock Road • Springfield, Virginia 22160

www.nrtw.org

March/April 2024

Foundation-Aided Employees Tell Congress: All Workers Need Right to Work

Workers' real-life battles against union bosses emphasize need to end forced union dues

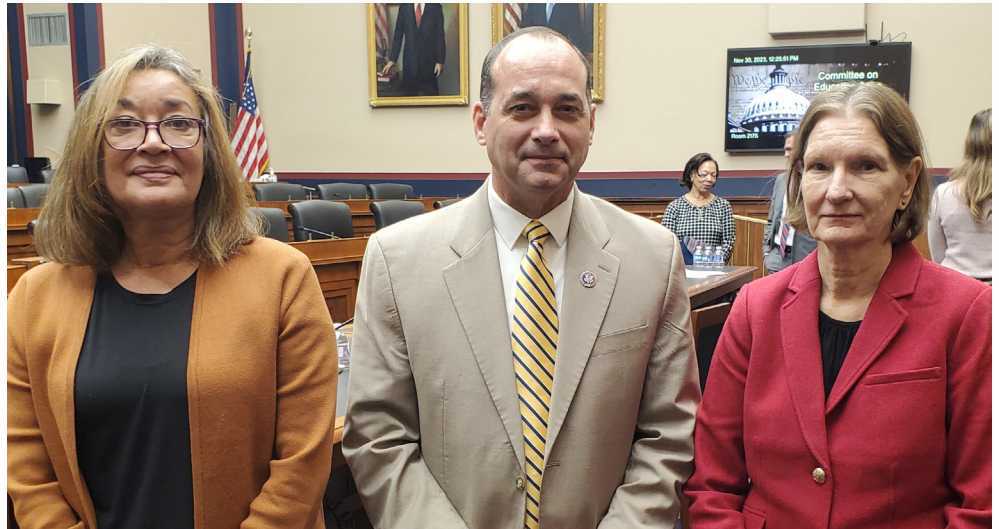
WASHINGTON, DC – In November, two recipients of National Right to Work Foundation free legal representation went to Capitol Hill to testify before the U.S. House Committee on Education and the Workforce about their battles against union bosses.

This was the first-ever congressional hearing on the National Right to Work Act, legislation that will safeguard American private sector workers' freedom to refrain from paying dues to an unwanted union.

Jeanette Geary, a retired nurse, and Brunilda Vargas, a Philadelphia-based public defender, both successfully challenged illegal forced-dues demands with Foundation aid. Their testimony at the hearing, alongside Foundation President Mark Mix, gave policymakers stark examples of how union officials often manipulate their forced-dues powers to advance coercive agendas over the objections of workers.

Vargas, Geary Share Stories of Union Coercion

The current federal law governing most private sector workers in America -- the National Labor Relations Act (NLRA) -- grants union bosses the power to force workers to pay union dues just to keep their jobs. Only by passing Right to Work laws can states protect workers covered by the NLRA from forced dues.



Foundation clients Brunilda Vargas (left) and Jeanette Geary (right) testified to Rep. Bob Good (center) and other members of the House Education and Workforce Committee about the danger forced dues still pose to America's workers.

Meanwhile, airline and railroad employees covered by the Railway Labor Act (RLA) can be required to pay union dues no matter where they work because federal law prevents them from being covered by state Right to Work laws. The one-page National Right to Work Act discussed in the hearing would repeal the portions of both the RLA and NLRA that authorize union officials to require union payments as a condition of employment.

"We're proud and thankful that Ms. Geary and Ms. Vargas both agreed to testify before Congress on the struggles independent-minded workers face every day because of federal law's lack of protection for worker freedom," Mix commented. "Union bosses and their allied politicians don't want to hear it, but the truth is rank-and-file workers

are the victims of Big Labor's government-granted coercive powers, which makes the stories of those victims especially powerful."

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DC-Area 'Union Kitchen' Employees Vote 24-1 to Remove UFCW Union

Foundation now defending workers against union attempt to overturn employee vote

WASHINGTON, DC – Ashley Silva, an employee at independent DC-area food store Union Kitchen, could sense in July 2023 that her coworkers had had enough of the United Food and Commercial Workers (UFCW) union in their workplace.

UFCW union officials had been ordering contentious boycotts and pickets on the stores, and some of the demonstrations even required police intervention after union picketers blocked store exits.

“The vast majority of the workers at Union Kitchen are sick and tired of the UFCW’s picketing, harassment of employees, and constant disruptions of our day-to-day work life,” Silva said at the time.

Despite Searing Worker Rejection, UFCW Bosses Trying to Cling to Power

With free legal aid from the National Right to Work Foundation, Silva filed a decertification petition with the National Labor Relations Board (NLRB), asking the federal agency to hold a vote among the employees of Union Kitchen’s five



Union Kitchen, a unique grocery concept that helps local DC entrepreneurs get their food products to market, was the target of a dangerous UFCW picket scheme.

stores on whether the union should be ousted. The vast majority of her coworkers signed the petition.

UFCW union officials levied allegations against Union Kitchen management in an attempt to stop the vote from happening. Despite some delays, Silva and her coworkers cast ballots in October 2023, and a January 2024 vote count revealed that she and her colleagues had voted against the union 24-1.

The union challenged eight employee ballots, meaning the full

tally of votes against the union is most likely 32-1.

Once the NLRB certifies this election result, Silva and her coworkers will be free of the union. However, in an attempt to stop this, UFCW officials continue to press the “blocking charges” against Union Kitchen management that they filed at the NLRB before the vote, and have also piled on objections to the election that contain the same basic accusations as the blocking charges.

Blocking charges are often unverified or unrelated charges of employer misconduct that union officials can manipulate to stall a ballot count or a certification of results in a union decertification case.

If the NLRB issues a complaint against an employer based on a union’s “blocking charges,” the decertification process is halted.

Foundation Will Fight UFCW Bid to Overturn Vote

Foundation staff attorneys are defending Silva and her colleagues’ victory at the ballot box from UFCW union officials’ bald-faced attempts to oppose their will.

“We’re happy that Ms. Silva and her coworkers were finally able to exercise their right to vote out a union they oppose,” commented National Right to Work Foundation Vice President Patrick Semmens. “It’s unfortunate, though hardly surprising, that despite such an overwhelming rejection UFCW union officials won’t take a hint and stop attempting to impose their unwanted so-called ‘representation’ on Union Kitchen employees.

“The Foundation is proud to defend Silva and her coworkers against these union tactics as they seek freedom from coercive unionism,” Semmens concluded. ✎

Foundation Action

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Distributed by the
National Right to Work Legal Defense Foundation, Inc.
 8001 Braddock Road, Springfield, VA 22160
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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.

Healthcare Employees in PA, MN Oust Unions with Foundation Aid

Over 270 workers now free of AFSCME at Philly hospital; Steelworkers union booted in MN

PHILADELPHIA, PA – In December 2023, National Right to Work Foundation-supported workers added two new victories to the growing string of successful union decertification efforts around the country.

In Philadelphia, a 270+ worker unit comprised of medical assistants, office coordinators, medical secretaries, and many other support employees voted by a nearly 60% margin to remove the American Federation of State, County and Municipal Employees (AFSCME) union from St. Christopher's Hospital for Children.

Outpatient service coordinator Shidiah Jackson led the union decertification effort with free legal advice from the Foundation.

In Austin, MN, patient care specialist Erin Krulish and other support workers at the Austin Mayo Clinic location forced Steelworkers union officials out of their facility.

That ouster follows multiple recent union removals involving other Minnesota healthcare employees, including nurses at Mankato Mayo Clinic, support staff at Mankato Mayo Clinic, and nurses at St. James Mayo Clinic, all of whom received free Foundation legal aid.

Both Krulish and Jackson kick-started these efforts by submitting decertification petitions to the National Labor Relations Board (NLRB). Each petition contained enough signatures from employees interested in having a union removal vote to prompt the NLRB to hold such a vote.

Healthcare Professionals Free of Monopoly Bargaining and Forced Dues

Both Pennsylvania and Minnesota lack Right to Work protections for their private sector workers, meaning that union officials had the power to enter into contracts with management that would



After being told by a union official that “the union isn’t going anywhere,” outpatient service coordinator Shidiah Jackson (back right) and her coworkers led a successful effort to kick the AFSCME union out of St. Christopher Hospital.

force Krulish, Jackson, and their coworkers to pay union dues or fees just to keep their jobs. In contrast, in Right to Work states, union membership and all union financial support are strictly voluntary.

Steelworkers Officials Depart MN Clinic to Avoid Likely Embarrassing Vote

If a majority of workers vote against a union in a decertification vote or otherwise force a union out, the union loses not only its ability to demand forced dues from employees, but also its monopoly bargaining power.

Such power permits union officials to dictate the contract provisions of all employees in a unit, even those who oppose or voted against the union's presence in the first place.

The effort by Krulish and her coworkers at Mayo Clinic Austin to remove the Steelworkers union

was unique in that they had already stripped union officials of their forced dues power through a “deauthorization election,” which can be petitioned for in the same way as a decertification election. In December 2022, Krulish and her fellow employees voted 49-17 to revoke the union's power to compel them to pay dues.

Deauthorization is the only way employees in non-Right to Work states can stop a union from seizing dues from workers as a condition of employment, outside of completely decertifying the union.

Krulish and her coworkers resorted to this option because the NLRB's questionable “contract bar” doctrine prevented them from kicking the union out in December 2022, simply because the union's contract was still active.

After experiencing a big loss in the deauthorization election,

CA Fire Safety Inspector Wins Reinstatement, Back Pay After Union-Instigated Firing

IUOE tried to compel union membership, settlement now mandates \$9,000+ payout

PLEASANTON, CA – Even in states like California that lack Right to Work protections, U.S. Supreme Court precedents forbid union bosses from compelling workers to become full union members. Thanks to the National Right to Work Foundation-won *CWA v. Beck* Supreme Court decision, workers in non-Right to Work states who wish to abstain from formal union membership also can't be required to pay union dues for expenses beyond what the union claims goes toward its bargaining costs.

Union bosses have a legal obligation to inform workers of these rights. But that wasn't the experience of Pleasanton, CA, fire safety inspector Alexandra Le, whom International Union of Operating Engineers (IUOE) officials got fired over her refusal to formally join the union in late September 2023. On top of that, union chiefs also deducted full union dues from her paycheck without her permission in violation of *Beck* -- meaning she was likely paying for union political activities against her will.

IUOE Officials Backed Off Illegal Demands Following Foundation Involvement

Le sought out free legal aid from Foundation staff attorneys, who filed unfair labor practice charges for Le at National Labor Relations Board (NLRB) Region 32 in Oakland, CA. "It's outrageous that IUOE union officials believe they can get me fired simply because I don't agree with their organization and don't want to support or affiliate with them," Le said at the time. "IUOE union officials have been far more concerned with consolidating power in the workplace and collecting dues than caring about me and my coworkers, and I hope the NLRB will hold them responsible for their illegal actions."



Beaming: Fire safety inspector Alexandra Le can now return to her vital work knowing her rights are fully vindicated. Her settlement goes beyond reinstatement and provides refunds of illegal dues.

Rather than defend their blatantly illegal actions against Foundation staff attorneys, IUOE union officials backed down in January and settled the case. Now, as per the settlement, Le's employer (Construction Testing Services) must reinstate Le, and both the union and company must jointly pay out to her over \$9,000 in back wages and benefits.

Employee Highlights Struggle Against Forced Dues to U.S. House of Representatives

As Le's case was ongoing, Le sought to expose the injustices that forced-dues and forced-membership demands impose on workers. Le submitted written testimony to the U.S. House of Representatives' Committee on Education and the Workforce for a November hearing on a federal law which aims to expand Right to Work protections and make union dues and membership strictly voluntary nationwide.

In her testimony, she described

the impact the illegal union-instigated firing had on her life: "My absence significantly set me back from a financial standpoint and has led to the stressful process of having to fight for my rights via the legal process . . . [a]nd while the union fees cause a notable decrease in my hard-earned take-home pay, the time lost and stress incurred by asserting rights that I had to discover independently has been equally detrimental.

"Simply put, nobody should be forced to join or pay any dues or fees to a union that they do not want to join," Le concluded.

Despite Legal Victory, CA Workers Need Right to Work

Foundation attorneys' favorable settlement for Le goes far beyond requiring just reinstatement and back pay from the company and union. The settlement also dictates that the company will only deduct the reduced *Beck* amount of union dues from Le's paycheck going forward. The union will also waive fees totaling roughly \$1,700 that its officials tried to force Le to pay from the time her case began back to the date of her hiring.

"Ms. Le's battle to protect her freedom of association from IUOE union officials is courageous, but no worker should ever have to fight this hard to protect their livelihood from dues-hungry union officials," commented National Right to Work Foundation Vice President and Legal Director William Messenger. "It's also unfortunate the Golden State's lack of Right to Work permits the same IUOE bosses who instigated her illegal firing to collect mandatory union fees from her.

"Workers themselves -- not union bosses -- should be in charge of determining whether a union is worthy of receiving their hard-earned cash," Messenger added. ✚

NYC Electrical Workers Prevail in Year-Long Battle to Kick Out Union

Union and NLRB colluded to stop worker vote with unsupported allegations

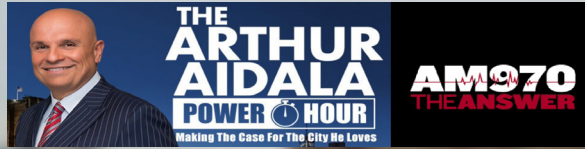
NEW YORK, NY – National Labor Relations Board (NLRB) bureaucrats frequently rush to advance flimsy union boss allegations (or “blocking charges”) as a justification for stopping or delaying employees’ efforts to remove an unwanted union. Yet as a recent Foundation decertification victory for a group of workers in New York City demonstrates, sometimes NLRB officials get especially creative when it comes to assisting union bosses’ efforts to trap workers in unionization they oppose.

Take the obstacles Shloime Spira and his colleagues, who work for Brooklyn, NY-based contracting company Horsepower Electric, faced in their effort to remove the International Union of Journeymen and Allied Trades (IUJAT) from their workplace. In December 2022, Spira submitted a petition asking the NLRB for a vote to decertify the union.

Labor Board Stalled Litigation to Keep Union in Power

The petition contained the requisite number of employee signatures to trigger such a vote. While the vote eventually took place in March 2023, NLRB bureaucrats sat for months on charges that IUJAT officials had levied against Horsepower Electric management, which delayed the ballot count and permitted IUJAT union officials to stay in power. Months later, following litigation at the NLRB and in federal court, it became apparent the NLRB lacked any evidence that could justify that delay.

Spira received free legal aid from the National Right to Work Legal Defense Foundation in defending his coworkers’ right under federal law to remove the union, and in suing the NLRB for the delays. Only



January 19, 2024

“[The NLRB] admits about five minutes before . . . the hearing is supposed to start, saying ‘we can provide no witnesses to testify to the unfair labor practice charge.’ **So this charge is completely baseless . . .**”

— Mark Mix on The Arthur Aidala Power Hour, WNYM New York City

Shloime Spira and his coworkers fought for months against IUJAT union allegations designed to stop him and his coworkers from ousting the union -- only to see NLRB officials admit there was no evidence at all to support them.

at the end of 2023, after a year of delays and litigation, did IUJAT union officials finally back down and file a “disclaimer of interest” to end their control over the Horsepower Electric workers.

“While my colleagues and I are pleased with this result, it’s simply ridiculous that the NLRB sat on our ballots for so long over union charges that were apparently meritless,” Spira commented on his experience. “The NLRB is supposed to protect employees’ right to choose whether or not they want a union, not delay that process indefinitely to maintain union officials’ power.”

Federal Court Action ‘Shocks’ Labor Board into Ending Delays

Union “blocking charges” contain claims of employer misconduct that are usually unverified and often have no connection to employees’ desire to vote out the union. NLRB officials inexplicably refused to hold a hearing or otherwise advance the IUJAT’s “blocking charge” case for months, effectively using it as a pretense for delaying the vote count in Spira and his coworkers’ effort to remove the union.

The delayed ballot count meant IUJAT union bosses stayed in

power, and also meant that forced union dues continued to flow out of Spira and his colleagues’ paychecks. Because New York lacks Right to Work protections that make union affiliation and financial support strictly voluntary, union bosses could force the Horsepower Electric workers to pay the union as a condition of keeping their jobs.

Eventually, the NLRB faced a federal lawsuit in the Eastern District of New York, alleging due process violations because the delay in the “blocking charge” case was being used to justify the delay of the decertification ballot count. That case, initially bought by the employer, was soon joined by Spira who successfully intervened with the help of his Foundation attorneys. The District Court demanded an explanation from the NLRB about the delay.

NLRB Agents Found Zero Witnesses to Back Union ‘Blocking Charges’

Faced with the threat of a federal court order to proceed with the ballot count, NLRB officials finally moved forward on the “blocking charge” case. But just minutes before a December 2023 hearing the

See ‘Electrical Employees’ page 8

Foundation: Under *Janus*, Union Boss “Release Time” Violates AZ Constitution

So-called “official time” scheme puts tax dollars toward union politics, says Foundation brief

PHOENIX, AZ – The National Right to Work Foundation-won *Janus v. AFSCME* Supreme Court decision provided massive new protections for American public employees’ free association rights. In 2018, the Court recognized for the first time that forcing a public employee to pay union dues just to keep his or her job is a First Amendment violation.

The *Janus* decision, buoyed by National Right to Work Foundation follow-up enforcement actions, means today well over half a million public employees are free of mandatory union payments. Yet, the implications of *Janus* go even beyond the billions of dollars in previously mandatory dues payments that union bosses can no longer force workers to pay.

Underpinning the *Janus* ruling was Foundation attorneys’ core argument that all public sector union activities involve influencing the government, and are therefore inherently political speech. Because of this, Foundation staff attorneys now argue that applying *Janus* to the practice known as union “official time” or “release time” -- where government union officials are paid tax money to conduct union business instead of government work -- shows how the scheme violates multiple state constitutions.

Foundation Attorneys Bring *Janus* Expertise to Public Employee Lawsuit

In Arizona for example, Phoenix city employees Mark Gilmore and Mark Harder sued Phoenix mayor Kate Gallego in 2023 for engaging in a scheme that redirects taxpayer funds intended for public employees’ compensation toward political advocacy conducted by American Federation of State, County and Municipal Employees (AFSCME) Field II agents.

That case, *Gilmore v. Gallego*, is



Foundation attorneys argue before the Arizona Supreme Court (above) and Texas Supreme Court that *Janus*’ ban on forcing public workers to fund union activities shows why state constitutions forbid the same coercion applied to taxpayers.

now before the Arizona Supreme Court, where Foundation attorneys filed a legal brief arguing that this so-called “release time” scheme violates Arizona’s Gift Clause, which forbids the government from paying out benefits to private parties that serve no public purpose.

The brief points out that, in *Janus*, the Supreme Court found that all government union bargaining is a form of lobbying designed to influence public policy for the benefit of the union. That means taxpayer subsidies of such union activities inherently violate the Arizona Constitution’s Gift Clause.

Phoenix’s Arrangement Pays Union Bosses to Lobby City

Phoenix’s “release time” scheme funnels taxpayer money into four full-time positions for union officials for the purpose of conducting union business, creates a bank of over 3,000 paid hours to be used by other union official employees for union purposes, and provides multiple other perks for union agents.

The policies unions lobby for “often are matters of substantial public concern, such as how much money the government expends on

wages and benefits,” the Foundation’s brief reads. “With its release time policy, the City is effectively paying individuals to lobby the City for a private advocacy organization and its members. The notion that this political advocacy serves a public purpose is untenable.”

Foundation attorneys are backing a similar lawsuit at the Texas Supreme Court. In *Roger Borgelt v. City of Austin*, Texas taxpayers are fighting a scheme that City of Austin officials are using to direct taxpayer dollars to Austin Firefighters Association union officials to conduct union business.

“Union bosses, who will often screech about ‘corporate welfare,’ are more than happy to arrange so-called ‘release time’ schemes in which taxpayer dollars are funneled toward supporting their massive lobbying efforts,” stated National Right to Work Foundation Vice President and Legal Director William Messenger. “*Janus* made it plain and simple that compelling public sector employees to fund union activities constitutes forced political speech, and courts everywhere have an obligation to declare such compulsion illegal when foisted on taxpayers.” ✚

Workers Expose Forced-Dues Abuses Before Congress

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Geary discussed her struggle against United Nurses and Allied Professionals (UNAP) union bosses, who subjected her and her fellow nurses in Rhode Island to an illegal scheme in which they were compelled to pay for union political expenditures, including lobbying in state legislatures. Geary fought UNAP union officials over the illegal dues demands for 12 years with free legal representation from Foundation staff attorneys. She finally prevailed in 2021, when the First Circuit Court of Appeals unanimously ruled in her favor and rejected a union appeal.

Vargas and Geary: Unions Purposely Hide Rights from Employees

“Unions do not tell employees about their rights because union officials have no incentive to do so, and regular employees without lawyers . . . are left to fend for themselves,” Geary testified before the House Committee. “This is America, and membership in a union and payment of dues should



As Geary (top left) and Vargas (top right) discussed their battles with union bosses, Mark Mix (bottom) exposed the intentionally misleading forced-dues language of a UAW master contract -- showing union boss malfeasance is not an isolated incident.

be strictly voluntary.”

Vargas testified about her case against United Auto Workers (UAW) union officials, who threatened to dock the salary of her and any other public defender in her office who refused to let the union seize money directly from their paychecks. Under federal law, even in forced-dues states, union officials must obtain express

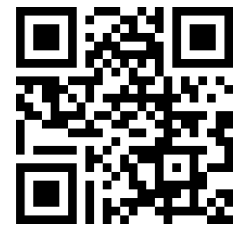
consent from workers before taking dues money by direct deduction. With Foundation legal aid, Vargas secured a favorable finding from the National Labor Relations Board (NLRB) that initiated a formal prosecution against the union. Eventually, UAW union bosses were forced to settle the matter and end their illegal conduct.

“As attorneys, we do have a level of sophistication when it comes to the law and legal processes. However, I cannot imagine a lay person having to face this type of pressure. I believe that most people sign union membership and authorization cards because they believe they have no choice, and they are often told that,” Vargas testified. †

Watch the highlights from Jeanette, Brunilda, and Mark on Capitol Hill at

www.nrtw.org/hearing

Or scan the QR code:



Healthcare Workers Free Themselves from Unpopular Unions

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Steelworkers officials likely knew another devastating defeat was coming after Krulish filed her decertification petition. They departed the hospital before the election could take place.

Philly Workers Reject One-Size-Fits-All Union Bureaucracy

In an interview with *The Philadelphia Inquirer*, Jackson related that she had no contact with the union until she tried to ask for a raise she felt she had earned, at which point hospital administrators said her salary and benefits were a

union matter. When she voiced her displeasure with the situation to the union and asked what the union actually did for her, a union official suggested her views didn't matter anyway because “the union isn't going anywhere.”

“OK, we'll see about that,” she told the union agent, according to the *Inquirer*. Soon after, she proceeded with her decertification effort, which ultimately resulted in the overwhelming vote among her colleagues for ending the union's so-called “representation.”

“It seems that American medical employees are discovering that union officials' one-size-fits-all

‘representation’ doesn't always work to their benefit, nor does it help them take better care of their patients,” commented National Right to Work Foundation President Mark Mix. “It's easy to see why healthcare workers would want to avoid compulsory dues payments, or being ordered to strike and abandon their patients during a busy time.

“Those in the healthcare industry should know that they have a right to petition the NLRB for a vote to remove a union, and that National Right to Work Foundation staff attorneys can assist them through this daunting process,” Mix added. †

Electrical Employees Short-Circuit Union Boss Delay Scheme

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NLRB had scheduled in the case -- which Spira's Foundation-provided attorneys had traveled all the way to New York to attend -- NLRB lawyers conceded they could produce no witnesses to testify in support of the union's charges against Horsepower Electric.

The NLRB formally dropped its complaint against Horsepower Electric that very day, clearing the way for the ballots to be counted. To avoid facing a vote result that would have very likely been an embarrassing loss, IUJAT union officials announced a "disclaimer of interest" that would finally result in the union leaving. With the union conceding defeat, both the NLRB and federal cases surrounding the union decertification election wrapped up in January.

Workers' Struggle Shows NLRB Needs Reform

"That union officials were so easily able to manipulate NLRB processes to block Mr. Spira and his colleagues from exercising their basic right to choose whether they want union representation shows that the agency is desperately in need of reform," commented National Right to Work Foundation Vice President Patrick Semmens. "It is outrageous that it took a federal court case to force the NLRB to admit that it had no evidence to back up union officials' allegations that were being used to trap workers in a union they opposed.

"Worker free choice is supposed to be the center of the National Labor Relations Act. Foundation attorneys will continue to defend this principle, even as the Biden Labor Board continues to grant union officials sweeping new powers to coerce workers into union ranks," Semmens added. 🙏



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

As thousands of Foundation cases for employees demonstrate, Big Labor bosses do not willingly comply with restrictions on their coercive powers unless forced to do so.

Take the stories of Jeanette Geary and Brunilda Vargas, both of whom were subjected to illegal forced dues demands by union officials.

Union bosses required Ms. Geary, a longtime nurse, and her colleagues to pay for union lobbying expenses -- a flagrant violation of the law, including Foundation precedents. She bravely stood up for her rights but it took a 12-year legal battle by Foundation attorneys to force the union to comply.

Meanwhile, Ms. Vargas is a seasoned public defender who has years of legal experience advocating for her clients in court. Yet even her experience as an attorney wasn't enough to help her defend her rights to oppose UAW bosses' threats to reduce her salary unless she consented to automatic dues deductions.

Like Ms. Geary, Ms. Vargas ultimately defended her rights only with Foundation legal aid.

However, it should never take a protracted 12-year legal case, or for an experienced attorney to need to find an attorney who is an expert in labor law, just to enforce longstanding precedents against union dues demands.

Your Foundation spreads these stories to newspapers, radio stations, and TV shows across the country to help other workers learn about their rights. And as you can read on the front page in this issue of **Foundation Action**, they can also provide powerful testimonials for elected officials, including those in Congress who are responsible for the laws that authorize union bosses' forced dues powers to begin with.

I was proud to testify beside Ms. Geary and Ms. Vargas recently, and as a Foundation supporter you should be proud too.

As you can see, your generosity goes far beyond the individual workers our attorneys help -- it boosts the message of worker freedom to inspire even greater change. So thank you for all you do.

Sincerely,