



Foundation Action

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

Vol. XXXI, No. 4

8001 Braddock Road • Springfield, Virginia 22160

www.nrtw.org

August/September 2011

Wisconsin State Employees Defend Right to Work Protections

*Foundation assists in
Badger State civil servants'
battle against compulsory
union dues*

MADISON, WI — As the battle over Wisconsin's recent public sector unionism reforms continues to heat up, three public workers are answering the clarion call to defend their recently-recognized Right to Work without government union boss interference.

In early June, the Wisconsin Supreme Court upheld Governor Scott Walker's recently-enacted government-sector monopoly bargaining reform bill, which sharply limits government union officials' monopoly bargaining power over public workers and taxpayers by protecting the Right to Work for most government employees and banning automatic forced-union-dues seizures from public employees' paychecks.

In response, AFL-CIO and Wisconsin Education Association Council (WEAC) union lawyers desperately filed a second lawsuit, this time in federal district court, seeking to overturn the law, claiming that freedom of association — the right of American citizens to voluntarily come together to express their opinions and petition the government — gives



Kenosha teacher Kristi Lacroix: "I'm not against the union; I just don't want to have to join it in order to teach."

union bosses forced-dues and monopoly bargaining powers.

Kenosha teacher files brief in favor of reforms

Wisconsin's new law frees public employees from paying compulsory union dues and ends the practice of using taxpayer resources to siphon dues into union coffers. Government union lawyers admitted that, under the reforms, public-sector union bosses would lose at least a quarter of their forced-union-dues revenues.

For example, Wisconsin teacher union bosses would not be able to force independent-minded teachers to pay \$5.4 million in forced dues and \$375,000 toward teacher union boss politics. This highlights the need for a Right to Work law for Wisconsin's workers in both the public and private sectors.

With free legal assistance from the National Right to Work Foundation and the

Wisconsin Institute for Law and Liberty, Kristi Lacroix, a 13-year educator and current English teacher at the LakeView Technology Academy in Pleasant Prairie, filed an *amicus curiae* brief in favor of the pro-workplace freedom reforms in the federal court because she does not like her hard-earned money being used to support Kenosha Education Association union bosses' political agenda.

Foundation-won precedent favors teacher

"I'm in a union that gives money to political organizations and candidates I don't support," she told the local paper after the brief was filed.

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Workers Defend Wisconsin Public Sector Right to Work

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In Lacroix's brief, Foundation attorneys clearly lay out how the reform measures are indeed legal and constitutional. Of course, Foundation attorneys have a long list of precedents that they have won before the U.S. Supreme Court to back up Lacroix's case.

For example, in *Abood v. Detroit Board of Education* (1976), Foundation attorneys successfully argued that compulsory union dues for union boss politics violate dissenting employees' First Amendment rights.

More recently, the Supreme Court unanimously ruled in *Davenport v. Washington Education Association* (2007) that, because union bosses have no constitutional right to collect fees from nonmembers, a state may require union officials to obtain consent before spending nonmember government employees' forced fees on political activities. The court reiterated that precedent in the Foundation-supported *Ysursa v. Pocatello Education Association* decision (2009), when it ruled 6-3 that an Idaho law banning payroll deduction for union political dues from state and local government employees is indeed constitutional.

Foundation staff attorneys have won numerous times at the United States Supreme Court, establishing precedents that support the constitutionality of Wisconsin's

government-sector monopoly bargaining reform bill.

“Despite mounting budget deficits...Big Labor operatives have made their position clear: no concessions, no compromise, and no surrender.”

Other workers encouraged to join the fray

After news spread of Lacroix's courageous stand for her right to refrain from supporting an unwanted union, two other Wisconsin civil servants joined her in filing a motion to intervene in the case.

With continuing free legal aid from the Foundation and the Wisconsin Institute for Law and Liberty, Nathan Berish, a teacher at Waukesha West High School and Ricardo Cruz, a trust fund specialist at the Wisconsin Department of Employee Trust Funds, joined Lacroix to argue that union officials are infringing

on their freedom of association by forcing them to associate with and contribute money to organizations they have no interest in joining.

Prior to the enactment of Wisconsin's reform law, the three workers were forced to pay union dues and accept union “representation” to keep their jobs. Now grateful to be free of the burden of union boss interference with their jobs, the workers believe that their intervention is necessary to give voice to other like-minded public employees who want nothing to do with a union.

Fight for workers and taxpayers continues

If granted, the employees' intervention would make them full participants in the lawsuit. And while the fate of many of Wisconsin's civil servants who have no interest in associating with or paying dues to public-sector union bosses hangs in the balance, the Foundation will continue to fight for the Right to Work for all of America's workers.

“Despite mounting budget deficits and a public that demands accountability, Big Labor operatives have made their position clear: no concessions, no compromise, and no surrender,” said Mark Mix, President of National Right to Work. “But union boss intransigence shouldn't be allowed to derail the necessary reforms that free Wisconsin teachers and civil servants from being forced to pay union dues just to get or keep a job and strip union operatives of their ability to drive up the cost of government.”

“We intend to vigorously defend the Foundation-won Supreme Court precedents that guarantee government employees cannot be fired for refusing to subsidize union boss politics and to withstand Big Labor's all-out assault to restore its forced-dues privileges over Wisconsin's public workers,” added Mix. ✚

Foundation Action

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

Boeing Workers Continue Fight Against Union Boss Retaliation

Worker files federal charge against union officials; another testifies before Congress

CHARLESTON, SC — With free legal assistance from the National Right to Work Foundation, a group of Charleston, South Carolina-area Boeing employees are continuing at every level possible their defense of their jobs from a retaliatory union boss attack.

As reported in the last issue of **Foundation Action**, International Association of Machinist (IAM) union bosses in Seattle, Washington enlisted the help of President Barack Obama's National Labor Relations Board (NLRB) to take the unprecedented step of trying to halt Boeing's production of its 787 Dreamliner airplane in South Carolina and force the company to instead produce the planes in Washington — thereby eliminating a thousand existing jobs and thousands more projected to be created once production reaches full capacity in Charleston.

Labor board denies workers full say in case

NLRB acting general counsel Lafe Solomon, who is holding the job even though his permanent appointment is being blocked in the Senate, sided with IAM union bosses and decided to prosecute Boeing for locating production of the new assembly line in South Carolina, a site that was chosen partly because of the state's popular Right to Work law.

In response, Charleston Boeing employees Dennis Murray, Cynthia Ramaker, and Meredith Going, Sr. filed a motion to intervene in the NLRB's unprecedented case.

An NLRB Administrative Law Judge in San Francisco denied the workers' request to intervene and the workers were forced to file an emergency appeal with the national NLRB office in Washington, D.C. The Board in D.C. ruled that the employees can intervene and file a brief



Foundation President Mark Mix was in Seattle briefing local and national media on the issue as the Foundation represents workers in the case.

in the case, but only after the hearings — occurring in Seattle — are concluded.

Unfortunately, the NLRB's half-measure is just a ploy by the forced-unionism advocates on the Board to save face after the public outcry against the NLRB's persecution of Boeing's decision to locate the new plant in a Right to Work state. The Board is quietly sweeping the workers' stories under the rug while appearing that they are not ignoring the workers in this case.

Mark Mix, President of National Right to Work, blasted the NLRB's decision to allow the employees only a conditioned say in the case, despite the great risk to their jobs, stating, "the Board's ruling is a further injustice to these workers, allowing only a minimal role in a case so vital to their livelihoods and the Charleston community at large."

Boeing worker files federal charge against union

"Foundation staff attorneys plan to pursue all legal options to ensure that the rights of Charleston-area Boeing employees, and America's independent-minded

workers, are protected against the expansion of forced unionism," added Mix.

To that end, Boeing employee Dennis Murray, who spearheaded the effort to boot IAM union bosses from the plant to help attract the new Dreamliner production line, filed unfair labor practice charges against the IAM union and its Seattle-based Local 751 for retaliating against the workers for removing the union from the workplace.

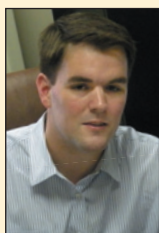
Employee shares her story with Congress

Murray's charge against the union points out that if the IAM union hierarchy still had a presence in the South Carolina plant, then the South Carolina workers' jobs would not be at risk, something that NLRB acting general counsel Lafe Solomon was forced to admit before a U.S. House Committee on Oversight and Government Reform hearing held in Charleston shortly after the charges were filed.

At that House Committee hearing, Boeing worker and Foundation attorneys' client Cynthia Ramaker was invited by Com-

National Right to Work Foundation Announces New Addition to Legal Team

Emory-trained attorney brings passion to the fight for employee rights



SPRINGFIELD, VA — Geoffrey MacLeay, formerly of Longwood, Florida, has joined the National Right to Work Foundation's legal staff to help fight compulsory unionism in the courts.

MacLeay is a member of the Florida state bar and a 2007 graduate of the Emory University School of Law.

"Geoff MacLeay brings a real commitment to defending employee rights against the looming threat of compulsory unionism," said Ray LaJeunesse, vice president and legal director of the National Right to Work Foundation.

"He will help pursue the Foundation's litigation program to counter Big Labor's well-funded attack on individual worker rights — from its coercive 'card check' organizing campaigns to the misuse of employees' compulsory dues for politics."

As the newest staff attorney, MacLeay will help build on the Foundation's record of litigation against compulsory unionism, which includes 14 cases decided by the United States Supreme Court, seven of which were won in whole or in part. National Right to Work Foundation staff attorneys currently represent thousands of employees in nearly 200 active cases nationwide.

Before joining the Foundation, MacLeay worked for a public relations firm in Alexandria, Virginia. Prior to that, he worked at the Center for Freedom and Prosperity, also in Alexandria. From 2009 to 2010, he was a Koch Associate with the Charles G. Koch Foundation.

MacLeay received a bachelor's degree in history and political science from Tulane University in 2004. †

Workers Fight

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mittee Chairman Darrell Issa (R-CA) to testify and share her story.

Ramaker, who depends on her Boeing job to care for herself and her elderly mother, took the opportunity to share with Congress the harmful effects the Obama NLRB's actions will have on her and her family if the NLRB terminates Boeing's South Carolina Dreamliner production work.

Meanwhile, Dennis Murray was allowed to submit a written statement for the record and, shortly thereafter, Murray also submitted written testimony to the Senate Committee on Health, Education, Labor, & Pensions, sharing his perspective on the case.

South Carolina just the tip of the iceberg

Although the Boeing case is a visibly egregious assault on America's free enterprise system and workers' rights, it's hardly the first, or even the latest, forced-

unionism power grab launched by the Obama labor board.

Through its decisions in cases and in internal "rule-making," the NLRB has effectively taken up Big Labor's agenda, pushing card-check unionization and "ambush" union organizing elections while violating workers' privacy rights, filing lawsuits against states for passing state amendments that attempt to guarantee workers a secret ballot vote, and preparing to overturn a key precedent that provides a safeguard for workers victimized by the abusive card-check process.

"The Boeing case is just the tip of the iceberg," stated Mark Mix. "The NLRB's forced-unionism backers' goal of empowering union bosses comes at the expense of individual employees."

"National Right to Work Foundation attorneys will continue to work tirelessly to stop the deluge of NLRB union boss giveaways, whether they be in Charleston, Seattle, Washington, D.C., or somewhere in between." †



Cynthia Ramaker, a Boeing employee who is receiving free legal assistance from the National Right to Work Foundation, testified before a Congressional hearing on the NLRB's power grab in Charleston, South Carolina.

Driver Wins NLRB Case against Teamster Discrimination

However, Obama appointees provide blueprint for getting around union anti-discrimination provisions

WASHINGTON, DC — The National Labor Relations Board (NLRB), a federal agency charged with administering private sector labor law, has ruled against a Teamster workplace scheme that discriminated against nonunion workers. Kirk Rammage, the victim of union officials' discriminatory practices, received free assistance from the National Right to Work Foundation during his extended legal battle.

Although the NLRB previously decided the case in Rammage's favor in 2009, that ruling was later nullified by the Supreme Court on the grounds that the Board lacked a three-member quorum at the time of the decision.

Foundation attorneys win victory after years of litigation

Rammage, an Interstate Bakeries employee from Ponca City, Oklahoma, was involved in the consolidation of two separate corporate divisions in 2005. Part of one division was staffed by a single nonunion sales representative — Rammage — who had put in more time with Interstate Bakeries than any of his coworkers at the office where he worked. Although the company wanted to retain Rammage and protect his seniority during the merger, Teamster Local 523 bosses demanded that union members receive preferential treatment, putting Rammage at the bottom of the seniority roster despite his workplace tenure.

At Interstate Bakeries, seniority increases employees' chances of securing desirable sales routes. By insisting that Rammage lose his seniority, Teamster officials signaled that union workers took priority over their nonunion colleagues.

After revisiting the facts of the case, the NLRB again concluded that Teamster

officials broke the law by discriminating against employees based on their union representation status. However, the Obama Board's new decision outlines a way for union officials to get around the National Labor Relations Act's anti-discrimination provisions, indicating that union officials could have lawfully ignored Rammage's tenure if they had claimed it was because he had no enforceable seniority instead of saying it was because he wasn't previously subject to union monopoly bargaining.

Biased NLRB tells union operatives how to sidestep ruling

Unfortunately, the Board's pro-union antics didn't come as much of a surprise. The Obama NLRB is stacked with Big Labor apologists and has issued a

number of decisions that undermine workers' rights in favor of Big Labor organizers. The most notable example of this pro-Big Labor bias was last year's appointment of Craig Becker to the NLRB, a former SEIU lawyer who is poised to decide several cases involving SEIU affiliates.

"Teamster bosses discriminated against a nonunion worker because he had the temerity not to associate with their union," said Patrick Semmens, legal information director for the National Right to Work Foundation. "While we're pleased to report that the Board has finally gotten around to reaffirming Kirk Rammage's rights, the Obama NLRB still managed to show its pro-compulsory unionism bias by taking the opportunity to provide union bosses with a roadmap for 'legally' discriminating against nonunion employees in similar situations in the future." ✚



When Teamster bosses cancelled his workplace seniority because he didn't belong to the union, Kirk Rammage turned to Right to Work attorneys for help. After a six-year legal battle, he finally forced the Teamsters to end their discriminatory practice.

Foundation Attorneys Return to U.S. Supreme Court

Ruling will determine whether nonunion public employees can be forced to subsidize union political activism

WASHINGTON, DC — On June 27, the United States Supreme Court agreed to review a Ninth Circuit Court of Appeals ruling that upheld forcing nonunion California state employees to fund union political activism. The Ninth Circuit decision came in a class-action lawsuit filed by National Right to Work Foundation staff attorneys for eight California civil servants — including two former union members — against Service Employees International Union (SEIU) Local 1000 (formerly known as the California State Employee Association). The case marks the fifteenth time Foundation attorneys have argued before the highest court in the land.

Under the Foundation-won Supreme Court decision *Teachers Local 1 v. Hudson*, public employees forced to pay union dues as a condition of employment must be notified of how much of their dues are spent on union activities unrelated to workplace bargaining — such as members-only events and political activism — and given an opportunity to opt out of paying for those activities. Despite this precedent, SEIU union officials imposed a “special assessment” in 2005 to raise money from all state employees for a union political fund, regardless of their membership status. Nonunion employees were not given a chance to opt out.

Supreme Court review stems from years of litigation

“The Ninth Circuit’s decision allowed union officials to extract dues from non-union civil servants for the purpose of political activism,” said Mark Mix, president of the National Right to Work Foundation. “That’s unacceptable, which is why we are encouraged that the Supreme



Next session, Foundation litigators will argue their fifteenth case before the Supreme Court on behalf of eight nonunion California civil servants who were forced to contribute to the SEIU’s political war chest.

Court will review this wrong-headed decision.”

In 2007, a federal district court ruled that SEIU Local 1000 was required to provide a notice to nonunion employees about the assessment, allow them to opt out of paying into the union political fund, provide a refund of monies spent on union boss politics, and pay interest from the dates of the deduction to nonmembers who chose to opt out. After SEIU union lawyers appealed the case, a divided Ninth Circuit panel reversed that decision 2-1 in December 2010.

On March 10, 2011, Right to Work staff attorneys filed a petition for a writ of *certiorari* for the plaintiffs with the United States Supreme Court.

Controversy highlights importance of Right to Work laws

Without a Right to Work law, California civil servants — to say nothing of the millions of private sector employees fac-

ing similar circumstances — remain vulnerable to politically charged union boss spending. Although Foundation-won precedents like *Hudson* provide important protections for nonunion employees, union operatives still get away with misusing workers’ dues for politics because many remain unaware of their rights.

Even when workers discover that their dues are being used to subsidize union political activism, many are unwilling to embark on a lengthy litigation process to reclaim their earnings. The prospect of enduring workplace harassment and intimidation at the hands of union operatives also deters many employees from standing up for their rights.

“At the end of the day, a California Right to Work law is the best remedy for this type of abuse,” continued Mix. “We hope the Supreme Court will move promptly to ensure that independent-minded civil servants can’t be forced to fund union political activism, but drawn-out litigation is no substitute for a law that would make all union dues strictly voluntary.”

36th Annual CEAUFU Conference Gives Teachers the Tools to Fight Forced Unionism

Concerned Educators Against Forced Unionism gathering informs and encourages independent-minded educators

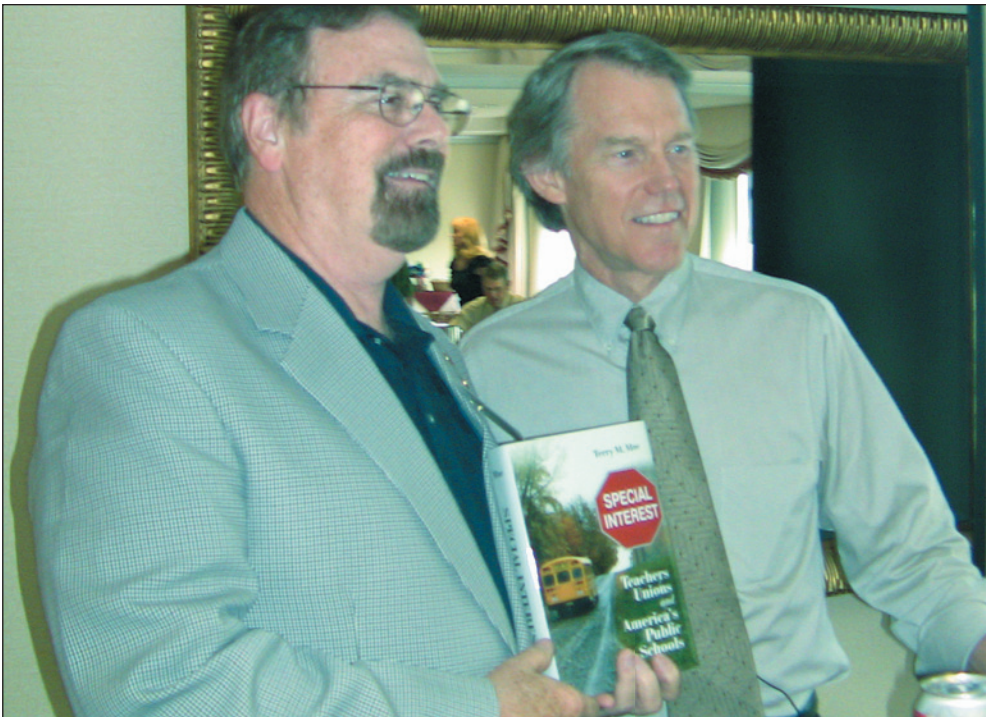
WASHINGTON, DC — From June 20 to June 22, the Capitol Hill Club played host to the 36th annual Concerned Educators Against Forced Unionism (CEAFU) conference, a gathering of public school teachers from across the country aimed at combating the problems of forced unionism in education.

Big Labor's politicized agenda stifles public education reform, hurts independent-minded educators, and forces unwilling teachers to pay union dues and accept union "representation." Protecting teachers' rights is a core mission of the National Right to Work Foundation's legal aid program. Since 1975, CEAUFU has supplemented those efforts by encouraging teachers to set up voluntary teachers' associations as an alternative to forced unionism.

At CEAUFU's 36th annual conference, educators from around the country met, circulated ideas, and discussed the problems of forced unionism in the classroom. The teachers listened to several presentations on Big Labor and education, including updates from Right to Work legislative and legal staff, a briefing on state and national education reform efforts from a Heritage Foundation policy analyst, and a talk from Stanford Professor Terry Moe, who discussed his new book, *Special Interest: Teachers Unions and America's Public Schools*.

"The fact is, as long as teacher unions remain powerful, we will never have effective school reform in this country," said Moe, explaining how forced unionism hurts public education.

For more information, visit CEAFU.org.



At the 36th annual Concerned Educators Against Forced Unionism conference, teachers from across the country shared ideas and listened to a number of speakers, including Stanford Professor Terry Moe (pictured above, right).

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:

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This year a number of generous Foundation donors have already taken advantage of the Charitable IRA (CIRA) provision of the Tax Relief, Unemployment Insurance Reauthorization and Job Creation Act. We appreciate the generosity of our donors in sending their IRA distribution, or a portion of that amount, to the Foundation as a charitable gift. With only a few months left in 2011 there's still time to support the Foundation this way.

The National Right to Work Foundation is a "qualifying charity" under Internal Revenue Code Section 170(b)(1)(A)(vi) and 509(a)(1). If you own an Individual Retirement Account (IRA) and are over the age of 70 1/2, you may elect to transfer up to \$100,000 directly from your IRA to the Foundation.

Your gift can make a difference! The National Right to Work Foundation continues to make significant headway in the fight against compulsory unionism abuse, and your partnership in this battle is vital.

As with all planned gifts you consider, please consult your own legal or tax advisor to receive the utmost tax benefits for you and your family.

Distributions should be made payable to: National Right to Work Legal Defense and Education Foundation, Inc.

If you have any questions regarding an IRA gift or a planned gift to the Foundation, please contact Ginny Smith, Director of Strategic Programs, at 703-770-3303, or gms@nrtw.org.



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

It's often said that a winning team plays both good offense and defense.

That's especially crucial with an opponent like Big Labor, as you see in this issue of **Foundation Action**.

We know only too well after 43 years in this work that union bosses will use every trick they can think of to catch workers off guard and maintain their forced-unionism power. When it comes to forcing more workers into dues-paying ranks, or squeezing the most money out of those workers they possibly can, union officials have lied, used intimidation, and have broken the law to get their way.

Our latest Supreme Court case is just another example. California union chiefs of the Service Employees International Union (SEIU) imposed a "special assessment" on all government workers laboring under monopoly bargaining contracts to subsidize a union political slush fund designed to protect Big Labor's power over those they force to pay as a job condition.

Later this year, Foundation staff attorneys will make our 15th trip to the United States Supreme Court in *Knox v. SEIU* to blow apart this scheme, in which union bosses flagrantly ignored previous High Court edicts — won by Foundation staff attorneys — that prevent union bosses from forcing nonmembers to pay for politics.

Meanwhile, union lawyers in Wisconsin are trying to undermine those same precedents in their federal lawsuit seeking to overturn Governor Scott Walker's monopoly bargaining reforms.

That's why Foundation attorneys filed an *amicus* brief and motion to intervene for government employees who support the new Right to Work law for civil servants.

It's vital we remain prepared to play defense for whatever trick Big Labor pulls next to violate workers' existing legal protections.

And it's just as vital we continue to stay on the offense by filing new lawsuits like *Knox* against union bosses to set new precedents expanding those protections. That is why we're expanding our legal staff.

But, none of this would be possible without the generosity of Right to Work supporters like you. Our ability to argue cases all the way to the Supreme Court is because of your investment.

Sincerely,

Mark Mix