



Foundation Action

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

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Latest Foundation U.S. Supreme Court Case has Big Labor Scrambling

*Union lawyers fear another
embarrassing loss to
Foundation attorneys*

WASHINGTON, DC — National Right to Work Foundation attorneys have won many significant victories at the United States Supreme Court, guaranteeing that workers have the right to refrain from formal union membership and from paying for objectionable union boss politics.

Union chiefs, unsurprisingly, often ignore or try to circumvent these rulings. While union lawyers in Wisconsin are trying to undermine these vital precedents in their ungrounded legal assault against Wisconsin's new Right to Work law for government workers, Foundation attorneys are actively trying to expand these precedents and ensure even more protections for independent-minded workers.

Workers denied right to opt out of union boss politics

The High Court announced this summer that it will hear another key case brought by Right to Work Foundation staff attorneys. In a telling move, union lawyers are trying to make the case just go away.



When brave teachers challenged an earlier forced-dues scheme, teacher union militants tried to shout them down at a press conference. Now, SEIU lawyers are attempting last-ditch maneuvers to avoid having the Supreme Court rule on the issue.

In 2005, Service Employees International Union (SEIU) Local 1000 union bosses demanded a “special assessment” from every single state employee covered by a union monopoly bargaining contract to raise money for a union political fund.

Union bosses wanted these “extra” millions to defeat ballot initiatives that would have limited their monopoly power over government workers and stranglehold on California taxpayers — demonstrating once again how forced dues corrupt the political process.

But thanks to previous Right to Work Foundation victories at the Supreme Court, union bosses cannot compel independent workers to pay dues or fees that fund union politics.

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SEIU Union Bosses Caught Red-handed Seizing Forced Dues

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In 1986, the Court unanimously ruled in *Chicago Teachers Union v. Hudson* that government-sector union bosses must provide employees with a notice offering them the chance to opt out of paying for union politics, an audited breakdown of the union's expenditures, and an opportunity to challenge the union's calculations of the forced fees for bargaining purposes.

“Big Labor’s illegally-funded political speech can’t be unspoken.”

SEIU union bosses simply ignored the law with regard to the “special assessment” and denied workers any chance to opt out. Foundation staff attorneys responded by filing a class-action lawsuit covering thousands of government employees for eight California government workers, including two former union members.

A federal district court ruled in 2008 against SEIU union bosses, requiring that they provide workers their rights under *Hudson* and refund any assessment monies spent on union boss politics (plus interest) to nonmembers who

exercise their right to refrain from subsidizing the union’s political fund.

A Ninth Circuit Court of Appeals panel overturned that decision, effectively encouraging union bosses to seize forced dues for politics from unwilling workers.

Foundation attorneys petitioned the Supreme Court to review the Ninth Circuit’s ruling in March, and the Court announced in late June that it will hear the case.

“A victory at the Supreme Court would provide additional protections to every government employee across the entire country,” explained National Right to Work Foundation President Mark Mix.

Union bosses running scared, ask Court to dismiss

Fearing an embarrassing loss, union lawyers then asked the Supreme Court to toss out the case after offering to pay back all of the money to objecting employees.

Foundation attorneys filed a brief countering the union’s motion to dismiss. The Court has announced it will hear oral arguments on the case on January 10, 2012, before ruling on the motion to dismiss, ensuring that the workers will at least have



National Right to Work staff attorneys are making their 15th trip to the nation’s highest court.

their day in court.

“We caught SEIU union bosses red-handed, and now they just want to push the case under the rug so other union bosses across the country can continue what is an outrageous and increasingly common forced-dues-for-politics strategy,” explained Mix.

Foundation attorneys contend that although the employees deserve the money returned, the Court should issue a ruling because the money should never have been taken in this first place.

“By taking workers’ hard-earned money and spending it on union boss politics, the damage has already been done,” Mix continued. “Big Labor’s illegally-funded political speech can’t be unspoken.”

A Foundation-won victory at the Supreme Court will give Foundation attorneys another key precedent to take down similar schemes nationwide.

“The case, and Big Labor’s cynical maneuver to make it go away, highlights the effectiveness of the Foundation’s legal aid program made possible by the generosity of our supporters,” said Mix. 

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.

Right to Work Foundation Launches New Charter School Initiative

Foundation fills void by educating charter school teachers and employees about their rights

SPRINGFIELD, VA — “If you can’t beat them, conquer them” seems to be the motto of teacher union bosses when it comes to charter schools.

Teacher union bosses have long opposed charter schools and other necessary education reforms. However, union bosses are starting to wake up to the fact that they are losing the battle against school choice, and have made an about-face that threatens to force countless new workers under their thumb.

Union bosses battle against school reforms

Teacher union bosses vehemently attack any education reforms that they perceive will threaten their forced-dues stranglehold over teachers and other school workers. And teacher union bosses hold a virtual monopoly over all of America’s public school educators and staff. Using the forced dues and fees of millions of teachers and other public school employees, teacher union bosses have the resources they need to promote sympathetic candidates in school board elections, effectively hiring their own bosses who use the elected positions to promote the union bosses’ agenda.

However, concerned parents and taxpayers are waking up to the detrimental effect teacher union monopoly bargaining power has on educating the next generation of Americans. More are opting for alternative means of education.

Charter schools are becoming an increasingly popular option for concerned parents who want the best education for their children. Charter schools have been largely out of the teacher union bosses’ grasp and independent of the union hierarchy’s radical political agenda and burdensome work rules that almost always come with union boss monopoly control.

As charter schooling becomes a more viable option for parents, teacher union bosses are now using charter schools as a means to force more teachers and employees into their forced-dues-paying ranks.

New group of workers vulnerable to forced unionization

Teacher union organizers are infiltrating charter schools across the nation, seeking to gain monopoly bargaining control. Employees facing forced unionization generally have to research their rights on their own to enjoy them, because union organizers keep workers in the dark about their rights to resist unionization and opt out of full-dues-paying union membership.

Seeing the need to fill the void, the National Right to Work Foundation launched a new initiative geared solely toward charter school teachers and employees. Foundation attorneys recently prepared a brochure aimed to educate charter school workers. The Foundation’s Legal Information Department is using a variety of means, including working with local and regional charter school advocacy groups, to get the brochures to the teachers who need them.

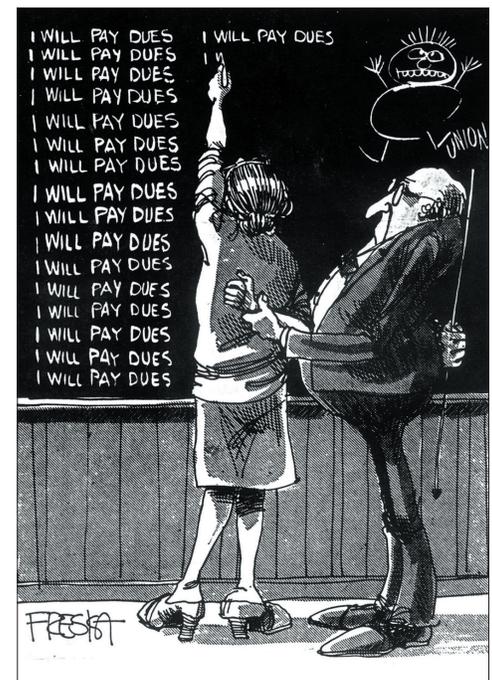
Foundation steps up to the plate to protect workers

Designed primarily for employees of charter schools who are already in a union boss-controlled bargaining unit or one that is being invaded by aggressive union organizers seeking to unionize the workers, the brochure contains a list of rights charter school teachers and employees have in the workplace. This allows charter school teachers and employees to make an informed decision

and exercise their statutory or constitutional rights, even in the face of union organizers’ threats, harassment, coercion or misrepresentation.

Meanwhile, because state charter school laws vary so drastically, Foundation attorneys are prepared to assist any worker who contacts the Foundation seeking legal assistance.

“The National Right Work Foundation has a long record of defending workers in all sectors and walks of life, and is uniquely qualified to assist America’s charter school teachers and support staff,” said Foundation Legal Director Raymond J. LaJeunesse. “The Foundation’s Charter School Initiative will expand and help countless charter school teachers and employees whose rights are violated by compulsory unionism.”



The National Right to Work Foundation is filling a void to help charter school teachers who may be subjected to unwanted union affiliation.

Public Employees File New Brief in Badger State Right to Work Battle

Foundation attorneys help public workers challenge compulsory unionism

MADISON, WI — The Badger State battle over forced unionism continues as three courageous Wisconsin civil servants are standing up to union bosses to protect their newly-enacted Right to Work protections in federal court.

With legal assistance from the National Right to Work Foundation, Pleasant Prairie teacher Kristi Lacroix, Waukesha high school teacher Nathan Berish, and trust fund specialist at the Wisconsin Department of Employee Trust Funds Ricardo Cruz filed an *amicus curiae* brief asking the judge to uphold Governor Scott Walker's public-sector unionism reforms enacted earlier this year and to deny the unions' request to strike down the law.

The workers filed the brief supporting reforms that sharply limit government union officials' monopoly bargaining power over public workers and taxpayers. These include giving public employees the Right to Work and provide for their families without having to join or pay dues to an unwanted union.

The reform also bans union bosses from using state resources to take dues from most public workers' paychecks through automatic paycheck deduction. This forces union officials to collect membership dues like any other private organization — namely, through voluntary contributions.

Union bosses declare war on worker rights

Naturally, union militants declared war on the reforms, even threatening legislators with violence or worse if they voted to pass it.

"We will hunt you down...slit your throats...drink your blood. I will have your decapitated head on a pike in the Madison town square," one union thug growled to a Republican legislator who voted for the bill.



Credit: New York Times

Wisconsin public servants likened union bosses to "itinerant street window washers who sling dirty water on your car windshield, smear it around, and then demand payment."

Despite the violent rhetoric, Wisconsin legislators passed and Governor Walker signed the bill into law, forcing union bosses to resort to other means to defeat it. And after public-sector union bosses challenging the law were handed a series of defeats in the state courts, AFL-CIO and Wisconsin Education Association Council (WEAC) union lawyers desperately filed a last-ditch lawsuit in federal court.

"What they couldn't do with 'sick-outs,' school shut-downs, bused-in out-of-state agitators, and even in the state courts, Big Labor is counting on the federal courts to do for them," stated Mark Mix, President of National Right to Work.

Workers defend law against union boss attack

In federal court documents, government union lawyers admitted that public-sector union bosses would lose at least a quarter of their forced-union-dues revenues under the reforms. Wisconsin teacher union bosses confessed in a court filing that they would not be able to force independent-minded teach-

ers to pay \$5.4 million in forced dues and \$375,000 toward teacher union boss political activism under the reforms.

This is no surprise, as the three public workers receiving legal assistance from the National Right to Work Foundation attested in their brief that they wanted to exercise the freedom to represent themselves with their employers — a sentiment evidently shared by countless more public workers.

In the workers' brief, they likened "the 'services' provided by (union officials)... to those of some itinerant street window washers who sling dirty water on your car windshield, smear it around, and then demand payment."

"These courageous workers share the same sentiment all people in a free society should share: That you should not be forced to accept or pay for a product or service you want nothing to do with," stated Mark Mix. "This quintessential American ideal is why, with the help of the National Right to Work Foundation, these workers will continue the fight to protect the Right to Work for most Wisconsin civil servants." ✚

Tennessee Teacher Wins Refund of Union Dues Used for Politics

Public school teachers in Tennessee no longer have to contribute to objectionable political causes to have a say in their workplace

POLK COUNTY, TN — With the help of National Right to Work attorneys, a Tennessee educator has won a full refund of union dues from the Polk County Education Association (PCEA), Tennessee Education Association (TEA), and National Education Association (NEA) unions. The settlement results from a 2003 complaint filed in state court by Dewey Esquinance, who wished to be a member of the PCEA to participate in negotiations over his wages and working conditions without supporting the union's controversial political agenda.

When the original complaint was filed, nonunion teachers at unionized schools were not permitted to vote or have any input on contracts between the union and their employer that dictated the conditions under which they worked. Although Tennessee law has since been amended to abolish union monopoly bargaining for public school teachers, Esquinance had to join the Polk County Education Association union in 2003 to have a say in his wages and work-

ing conditions. After joining the union, however, Esquinance learned that most union members' dues were funneled to the TEA and the NEA, the union's state and national affiliates. These dues were then used to support a variety of political causes Esquinance found objectionable, including financial contributions to ACORN and the National Organization for Women.

"When Dewey Esquinance filed suit, Tennessee educators had to join union ranks and contribute money to a variety of controversial organizations just to make their voices heard in the workplace," said Patrick Semmens, legal information director for the National Right to Work Foundation. "That's clearly unacceptable, which is why the Foundation stepped in."

Right to Work attorneys overcome early setbacks to win settlement

After a Polk County Circuit Court dismissed the case in 2004, the Tennessee Court of Appeals reversed that ruling and remanded the case to the circuit court for further deliberations and trial.

Although Right to Work supporters had successfully pushed for the Tennessee law to be amended to allow nonunion teachers to participate in contract negotiations, Esquinance continued to pursue the case to reclaim the union dues he was forced to contribute. Rather than face Foundation staff attorneys at trial, union lawyers eventually offered Esquinance a full dues refund, plus interest.

"We're happy to report that Dewey Esquinance's dues will finally be returned to their rightful owner," continued Sem-

mens. "Nonunion teachers shouldn't have to join a union or financially support controversial political activism just to have a say in their workplace, which is why this settlement is a victory for Tennessee educators." ✂



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**



Dewey Esquinance's union dues were being used to support controversial political organizations, including ACORN, which was recently implicated in a national prostitution sting, caught on video.

Foundation-Assisted Worker Shines a Light on NLRB Ruling that Rolled Back Secret Ballot Protections

When the NLRB cancelled her secret ballot election, a Kaiser Permanente employee spoke out to Congress on the dangers of coercive card check organizing

WASHINGTON, DC — After enduring a “card check” organizing drive launched by SEIU operatives last summer, Barbara Ivey of Salem, Oregon turned to Foundation staff attorneys for advice. She quickly learned that independent-minded workers could demand a secret ballot election to challenge the results of a union card check drive. However, before Ivey and her coworkers could cast their ballots, the Obama National Labor Relations Board eliminated that modest check on union organizing by reversing the Foundation-won *Dana* precedent. Now Ivey is speaking out in the halls of Congress to raise awareness about the dangers of coercive card check organizing.

In her recent testimony before the House Committee on Education and the Workforce, Ivey said that many of her

coworkers felt pressured or misled into signing cards by union organizers — cards that were then counted as “votes” in favor of union monopoly bargaining.

“When we were told that in only twelve days SEIU had become our monopoly bargaining agent, many of my coworkers and I were stunned and frustrated that we did not have a say in this card count and never had any vote,” said Ivey.

Ivey also told the House Committee that SEIU organizers had stacked the deck in favor of unionization.

“It is not right to deny workers the opportunity to be fully informed, and the protections afforded by a secret ballot election on such important decisions,”

see CANCELLED SECRET BALLOT page 8



After testifying before Congress on the dangers of coercive “card check” organizing, Barbara Ivey was interviewed by Foundation Staff Attorney Glenn Taubman in the Norma Zimdahl Right to Work studio.

Smart Planning for Year End Charitable Giving

As 2011 draws to a close, many supporters are looking to wind up the year with a charitable gift to meet their financial goals for this year. Many Right to Work Foundation donors know that this is the time to consider many effective ways to accomplish both their estate goals, as well as meet their current tax situation goals.

Other Gifts to the National Right to Work Foundation to Consider

There are many charitable giving options you may want to consider before year end for maximum tax savings. The following options are available today:

1. **gifts of cash (a tax deduction for the 2011 tax year);**
2. **gifts of stock/securities (a tax deduction for the full market value and no capital gains tax);**
3. **review plans for a living will or trust (a plan for the future);**
4. **gift annuity (a tax deduction in the current year and an income stream for life)**
5. **charitable lead trusts and charitable remainder trusts.**

If you are inclined to review your will or estate plans at this time, please consult your tax advisor or attorney to consider the best planned giving option for you and your family. There is a sense of peace and security that comes with securing a will or having an estate plan finalized. The future of the Right to Work movement rests in the hands of generous donors like you, so please consider a gift before December 31, 2011 — or make plans today for a planned gift to the Foundation that works best for you.

Remember that only gifts made by December 31 can help reduce the amount of taxes you owe next April.

If you would like additional information or have any questions concerning a gift to the tax-deductible National Right to Work Foundation, please call Ginny Smith at 1-800-335-3600, Ext. 3303



The National Labor Relations Board Cancelled My Vote

by Barbara Ivey

Suppressing votes is something we usually associate with Third World dictators. But closer to home, the National Labor Relations Board in Washington, D.C. is the one calling off elections.

After working at Kaiser Permanente for 21 years, I was abruptly informed that Service Employees International Union organizers were launching a 'card check' drive at my workplace. Following a thirteen day campaign, company officials announced that SEIU organizers had collected enough union cards to become the sole bargaining agent at my office. In Oregon, this means that everyone – including those of us who did not want to join the SEIU – will have to pay union dues and accept union bargaining just to keep our jobs.

If you've never experienced a card check drive in your workplace, you may not know the difference between card check organizing and traditional secret ballot unionization elections. During a card check campaign, union organizers can pressure employees face-to-face until they sign cards that are then counted as 'votes' for unionization.

I was strongly suspicious of the results of the SEIU's card check drive from the very beginning. Although union officials claimed to have collected signed cards from a majority of my coworkers, I was never approached by their organizers. Other colleagues said they felt pressured by SEIU officials to sign cards in favor of unionization. Many were frustrated that

we never had a secret ballot vote to determine if we'd unionize.

After talking to attorneys at the National Right to Work Foundation, I decided to collect signatures for a union decertification election. At the time, the National Labor Relations Board allowed employees like me to petition for a secret ballot vote immediately after a union got in via card check. This 'safety valve' was intended to correct some of the abuses associated with card check organizing – many of which I described above.

After I collected enough signatures to trigger a vote, the NLRB scheduled a secret ballot election for October 4. My coworkers and I were eager to have our say, but the NLRB called the whole thing

the decision has had a serious impact on workers across the country. Several pending union decertification elections were called off before employees had a chance to vote. Other elections that had already taken place were abruptly nullified – the NLRB didn't even bother to count the ballots.

Choosing whether to unionize or not is a serious decision, and card check unionization drives are often fraught with misinformation, harassment, and even intimidation. Prior to the NLRB's Lamons Gasket decision, workers at least had an opportunity to demand a secret ballot vote following a card check campaign. Now we don't even have access to that modest restriction on ag-

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ELECTION AND DENY EMPLOYEES THE OPPORTUNITY TO VOTE
ON UNIONIZATION THROUGH SECRET BALLOT ELECTIONS.**

off before we could vote. It was only later that I learned why.

In the recent Lamons Gasket case, the NLRB voted 3-1 to overturn a precedent that allowed workers like me to demand a secret ballot unionization election following a card check campaign. I don't know why the Board decided to reverse prior precedent and end these safety valve elections. But I do know

gressive union organizing. My coworkers and I are saddled with a union for up to four years before we get another chance to vote.

The NLRB was wrong to cancel our election and deny employees the opportunity to vote on unionization through secret ballot elections. Congress should act immediately to rein in the Board and restore my secret ballot. †

Cancelled Secret Ballot

continued from page 6

said Ivey. “In revoking the *Dana* decision, the NLRB has taken away one of the last guarantees workers have of a fair and honest vote in workplace elections.”

Unfortunately, Ivey’s experience is all too typical of card check unionization drives. If aggressive union organizers can bully an employer into agreeing to look the other way while they collect cards, employees quickly become targets. Union operatives resort to unwelcome home visits, bribes, or face-to-face intimidation to collect enough cards to acquire monopoly bargaining privileges. And once union bosses get in, they’re tough to dislodge: Union contracts run several years before expiring, and non-union employees in states without Right to Work laws (like Oregon) can be forced to pay union dues for the duration of those agreements.

Brave employee sounds the alarm on card check, stands up for her rights

After consulting with Foundation attorneys, Ivey decided to collect signatures from her coworkers to trigger a secret ballot vote and eject the union from their workplace. Although a secret ballot election was scheduled for October 4, the Obama NLRB eliminated the *Dana* precedent before Ivey and her coworkers had a chance to cast their ballots. Thousands of other employees across the country were similarly affected by the NLRB’s sweeping decision.

In addition to testifying before Congress on the dangers of card check organizing, Ivey also wrote a hard-hitting op-ed in *The Washington Examiner* describing her experience with the SEIU and the NLRB’s subsequent decision to deny her a secret ballot vote. (Read her op-ed on page 7.)



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

As I write this note, another year is coming to a close while friends and family prepare for the hustle and bustle of the holiday season.

Looking back on 2011, I’m proud of all that you and I have accomplished to hold the Obama Administration and its Big Labor cronies accountable.

But our fight is far from over. With new union boss power grabs looming on the horizon, 2012 promises to be just as challenging for friends of worker freedom as 2011.

At the NLRB, Big Labor’s cronies continue to attack companies and employees that refuse to toe the union line and give in to forced dues demands.

Meanwhile, Organized Labor gears up for the 2012 election, in which they’ll spend billions of dollars to keep Obama in the Whitehouse and their forced unionism-supporting allies in power.

Their unprecedented power grabs mean our legal aid program is as busy as ever.

Fortunately, your Right to Work Foundation is here to stand up for freedom against Big Labor’s coercive agenda. And we’re doing so everywhere — from administrative agencies to the U.S. Supreme Court.

But none of our efforts would be possible without your continued support. In this season of giving thanks, I’m grateful for the unwavering enthusiasm and generosity of Right to Work supporters across the country.

Sincerely,

Mark Mix