



Foundation Action

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

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VW Workers Force UAW Bosses to Drop Attempt to Overturn Vote

UAW drops appeal after NLRB ruled that Foundation staff attorneys could defend election results

CHATTANOOGA, TN – Five tireless Chattanooga, Tennessee, Volkswagen workers have staved off United Auto Worker (UAW) union bosses’ attempt to vacate the results of a unionization election in which a majority of their voting coworkers rejected the union’s “representation.”

The UAW lost the election even though union and company officials colluded to force the workers into union ranks via a coercive backroom card check scheme, and when that failed, ambushed the workers with a unionization election just nine days after the vote was announced.

After losing the unionization election, UAW union officials filed objections with the National Labor Relations Board (NLRB) seeking to overturn the results, setting off a dramatic chain of events that ultimately led to the workers forcing UAW officials to abandon their legal challenge.

VW workers challenge intimidation tactics

Foundation staff attorneys earlier helped several VW workers file charges citing improprieties in the UAW’s unionization campaign. Some of those workers also filed a federal charge against the company after German VW officials made comments linking unionization to more production work for the facility.



Foundation-assisted VW employee Mike Jarvis was interviewed about the UAW’s attempt to overturn a unionization election.

Just days after the NLRB dismissed the workers’ charges, the Board approved a rapid-fire unionization election. Foundation staff attorneys requested an official inquiry into the NLRB’s conduct in the case, which was seen as favorable to the union, and also filed a Freedom of Information Act (FOIA) request with the NLRB seeking full disclosure regarding the agency’s handling of the case and its contacts with UAW agents.

Workers reject UAW; union files appeal

Despite the odds, the workers voted to remain free from UAW union boss

control. Predictably, UAW union officials appealed the election results.

After union officials appealed the vote, VW workers represented by Foundation staff attorneys successfully moved to intervene in the UAW’s challenge of the election results. Seeking to exclude the workers from defending their vote, union lawyers then asked the NLRB to reverse the Acting Regional Director’s ruling allowing the workers to intervene in the process.

Desperate union officials claim “conspiracy”

The UAW also requested a delay in the appeals process and argued that the VW workers should be excluded from

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UAW Effort to Overturn Chattanooga Vote against Unionization Fails

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the case because they had clearly expressed their opinions against the unionization of their workplace leading up to the election.

Furthermore, the UAW brought forth a UAW employee as a sworn witness, who supposedly overheard a February 2 phone conversation at the Atlanta airport between Foundation staff attorney Glenn Taubman and an unknown individual which somehow proved that the Foundation was an “active participant” in a “coordinated campaign” against the UAW.

Foundation staff attorneys responded by filing a brief opposing further delay of the NLRB’s hearing on the union’s challenge. This brief accused the UAW of using false evidence to prompt the Board to remove the workers from the process. The brief also called for a Department of Justice investigation to consider a prosecution of the UAW’s “witness” for filing demonstrably false statements under oath, which Taubman easily debunked using his cell phone records.

The workers’ brief states: “That the UAW resorted to filing a false declara-



Unscrupulous UAW bosses had to back down from attempting to overturn a unionization election they lost at Volkswagen’s Chattanooga plant.

tion that could be so easily disproved to attempt to show the existence of a grand and secret conspiracy being waged against it smacks of the desperation and paranoia increasingly gripping the union following its rejection by Volkswagen employees in the election.”

The brief then pointed out that the UAW’s false accusations against the Foundation are not reason enough to exclude the workers even if the accusations were true. The brief said, “The UAW’s case proceeds from the misguided premise that it is objectionable if any entity campaigned or spoke against the union in the election. While this belief


may reflect how elections are conducted in Venezuela or North Korea, it does not reflect how elections are conducted in this free nation.”

In mid-April, the NLRB rejected the UAW bosses’ motion to exclude the workers from the process.

Union bosses’ conduct “shameful”

Seeing the prospect of the workers participating in the proceedings, UAW union bosses decided to save face and abandoned their efforts to overturn the election.

“The NLRB ruled that VW workers are entitled to defend their vote to keep the UAW out of their workplace,” said Mark Mix, President of the National Right to Work Foundation. “The decision over whether or not to unionize is supposed to lie with the workers, which made the attempt by the UAW to shut them out of this process all the more shameful.

“Now that the NLRB has ruled that the workers did indeed have a stake in the process, the UAW backed down,” added Mix. “The real question is: Why were UAW officials so afraid of workers and their National Right to Work Foundation-provided attorneys being part of this process?” 

Foundation Action

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Foundation-assisted NASA Employee Files Brief in Union Election Dispute

Government union's stalling tactics block vote on union decertification

WASHINGTON, DC - A Wallops Island, Virginia, NASA employee is defending his and his coworkers' right to vote on their union representation for the first time in 40 years.

With free legal assistance from National Right to Work Foundation staff attorneys, Ronald Walsh, a 10 year NASA employee, filed the brief with the Federal Labor Relations Authority (FLRA) after the agency rejected his request for a secret-ballot vote.

Union bosses ensconced in workplace without vote

Forty years ago, in 1971, the American Federation of Government Employees (AFGE) union hierarchy won monopoly bargaining powers in Walsh's workplace. Since then, five AFGE-affiliated unions have enjoyed monopoly bargaining powers over the workplace without a single vote for all of the employees.

Walsh believes that the union was out of touch with his coworkers.

"I circulated the petition to conduct a decertification election of the local union at NASA Wallops Flight Facility because about 80 percent of the roughly 150 Federal employees who are represented by the union have already decided not to be dues-paying members and a significant portion of that group prefers not to be represented by any union," said Walsh.

In June of 2013, Walsh circulated a decertification petition at his workplace seeking a vote which would allow the workers to determine whether they would keep the AFGE Local 1923 union in their workplace. Within a few days, Walsh obtained the required signatures from 30 percent of his coworkers and filed the petition with the FLRA on June 17, 2013.



With Foundation legal assistance, veteran NASA employee Ronald Walsh is trying to eject an unwanted union from his workplace.

Union bosses, agency block workers' petition

An FLRA Regional Director dismissed Walsh's petition, stating that he could only file it between July 10 and August 26, 2013. However, the FLRA Regional Director allowed the union to wait to object to Walsh's petition on those grounds until August 27, 2013 – one day after the supposed deadline.

Had the union made its objection within the "window period," when originally due, Walsh would have been able to timely refile his petition. Instead, the union bosses' delaying tactics, and the FLRA Regional Director's dismissal of the workers' petition, meant the NASA workers would have to wait nearly a year before they could resubmit the petition.

"The [FLRA Regional Director] took over six months to issue a ruling that rejected my petition based on her very questionable legal interpretation of the Congressional statute," explained Walsh.

"The FLRA's own manual states that for any representation petition submitted to it, that 'It is imperative that the Regional Director review all incoming petitions immediately to identify any defects.'"

"The Regional Director certainly failed to follow that guidance when her delayed ruling indicated that my petition was determined to be defective based on a simple issue that I could have easily corrected within her time limits if she had notified me of that questionable defect sooner," Walsh continued. "It appears that the FLRA is more interested in protecting unions than it is in protecting the rights of the Federal workers in those unions to exercise their right to decide by secret ballot election if they want their association with the union to cease."

Walsh has since appealed the Regional Director's ruling. With free legal assistance from Foundation staff attorneys, he also filed a brief with the FLRA in February outlining why the petition was properly filed.

Decertification petitions not subject to "window periods"

The FLRA Regional Director has not previously decided whether a "window period" applies to decertification petitions filed by individuals. Consequently, the FLRA allowed anyone interested to file briefs in the case.

Foundation staff attorneys argue in Walsh's brief that the FLRA's so-called "window period" does not apply to individual workers' decertification petitions, and that any other interpretation of the statute could violate workers' First Amendment rights.

Foundation attorneys state in the brief that the workers are being "gagged

Federal Court Upholds Michigan's New Private-Sector Right to Work Law

Workers turn to Foundation for help to refrain from union membership, dues payments

DETROIT, MI – Just days after the one-year anniversary of Michigan's private-sector Right to Work law going into effect, a federal court upheld the law's major provisions against a spurious AFL-CIO union challenge.

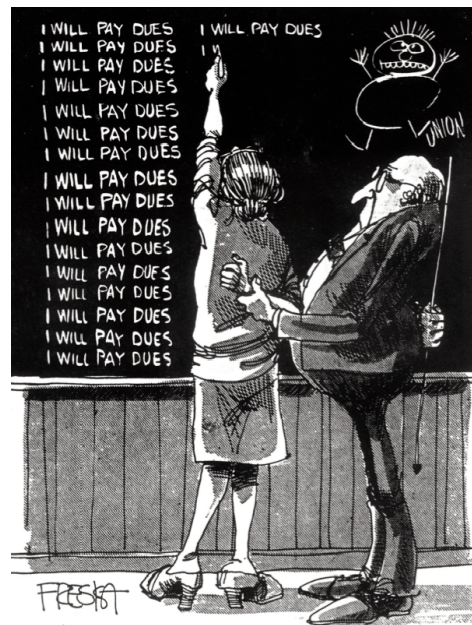
After suffering a major legislative defeat and being rejected by voters when they attempted to entrench forced unionism in the state constitution, Michigan union bosses are seeking to strike down Michigan's private-sector Right to Work law in the courts. In this case, AFL-CIO union lawyers argued at the U.S. District Court for the Eastern District of Michigan that federal law preempts the enforcement of state Right to Work laws in several respects.

Workers file brief defending Right to Work

With free legal assistance from Foundation staff attorneys, Michigan workers Terry Bowman, Brian Pannebecker, Aaric Lewis, and Robert Harris filed a brief in the case defending Michigan's private-sector Right to Work law.

All four workers are or were employed in workplaces where a forced dues contract was in place between their employers and union hierarchies before the Right to Work law was enacted. Consequently, the workers can be forced to pay union dues or fees just to keep their jobs.

In the brief, Foundation staff attorneys pointed out that the 24 state private-sector Right to Work laws are protected under federal labor law and cite various federal and state precedents that support their argument. Despite prior preemption challenges to other state Right to Work laws, there is not a single case invalidating a Right to Work law on that basis.



A Michigan teacher union is attempting to force nonunion educators to pay dues, in defiance of that state's recently-enacted Right to Work law.

The court dismissed the union's challenges to the core provisions of Michigan's Right to Work law. Thus, private-sector Michigan workers will continue to enjoy the Right to Work without having to pay dues to an unwanted union.

Michigan workers stand up for new Right to Work protections

Meanwhile, with free legal assistance from National Right to Work Foundation staff attorneys, several Michigan workers are challenging union bosses' illegal attempts to prevent them from exercising their rights under the state's Right to Work laws.

In cases across the state, union officials are attempting to force workers to abide by union bylaws and "window periods" in order to prevent employees from resigning their union membership

and refraining from dues payments, even though Michigan's Right to Work laws unequivocally protect those rights. Furthermore, federal labor law also protects workers' absolute right to refrain from union membership at any time, without penalty.

Six more public school workers file state charges

Six public school employees - Lindsey Bentley of Muskegan, Alpha Snyder of Battle Creek, Mary Derks of Whitehall, Mary Carr of Grand Blanc, Becky Lapham of Grand Rapids, and Tina House, a Lapeer County employee - have also filed state charges with the Michigan Employment Relations Commission (MERC) with the help of Foundation staff attorneys.

Five of the public school employees filed their charges against the Michigan Education Association (MEA) union because MEA union officials told them that they would have to wait for a union-designated "window period" of August 1 through August 31 before they could resign union membership and refrain from union dues payments.

House was also denied her right to refrain from union dues payments after Teamster Local 214 union officials told her that she would have to wait for a union-designated "window period" in July 2014 before she could revoke her dues deduction authorization and opt out of union dues.

Lapham filed additional charges against the union and the Grand Rapids school district for agreeing to illegally amend and extend forced unionism provisions in the monopoly bargaining agreement. Michigan's Right to Work laws provide that no employee can be required to pay union dues as a condition of employment after March 28,

2013, but forced dues contracts between unions and employers entered into prior to the laws' effective date remain in force throughout the state until they expire. After those forced dues provisions expire, workers are free to refrain from union dues payments under the Right to Work laws.

Cases could determine Right to Work enforcement

In similar cases across Michigan, Foundation staff attorneys have already assisted five other public-sector workers who filed similar charges with the


MERC and two private-sector workers who filed federal charges with the National Labor Relations Board (NLRB).

The outcomes of these cases could very well determine how Michigan's Right to Work laws are enforced for Michigan workers seeking to exercise their rights under the new legislation.

Fortunately, National Right to Work Foundation staff attorneys are working with concerned Michigan employees to ensure that Big Labor's legal counter-attack won't hollow out Michigan's Right to Work protections.

"After suffering major legislative and judicial defeats, union bosses are simply

ignoring Michigan's new Right to Work laws to keep the forced-dues gravy train going," said Ray LaJeunesse, Vice President of the National Right to Work Foundation. "We will do everything in our power to defend the rights of Michigan workers who wish to refrain from joining or paying dues to a union."

"We're also heartened by the growing number of public and private sector employees from across the state of Michigan who have joined the fight to protect their Right to Work from scofflaw union bosses," added LaJeunesse. "Without their courageous efforts, our legal aid program wouldn't function." 

Foundation Defends Religious School Employees from Forced Unionism

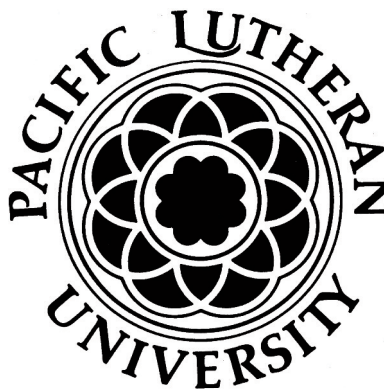
Foundation attorneys file brief to protect religious institutions from onerous NLRB regulations

SPRINGFIELD, VA – In late March, the National Right to Work Foundation filed an *amicus curiae* ("friend of the court") brief in a case involving Pacific Lutheran University and Service Employees International Union (SEIU) Local 925. Foundation staff attorneys filed the brief in support of Pacific Lutheran's efforts to resist union encroachment on its religious prerogatives.

Under the auspices of the National Labor Relations Board (NLRB), SEIU Local 925 officials are attempting to organize adjunct professors at Pacific Lutheran University. According to Foundation staff attorneys, this violates longstanding Supreme Court precedent, which holds that the Board has no authority over religiously-affiliated schools.

Unionization could undermine schools' religious mission

"The last few years have made it abundantly clear that the Obama Labor Board has no interest in playing by the



Pacific Lutheran University and other religious institutions of higher learning are the SEIU's latest target.


rules if there's an opportunity to expand union power," said Patrick Semmens, Vice President of the National Right to Work Foundation. "Allowing the SEIU to target Pacific Lutheran University is just the latest example of this trend."

Foundation attorneys contend that the Establishment Clause of the First Amendment prohibits the federal government from regulating the religious work of churches. Pacific Lutheran University was established by the Lutheran Evangelical Church in America and continues to operate under the church's authority. As Foundation

attorneys point out in their brief, the university's educational mission is inextricably linked to the teachings of the Lutheran Church.

Foundation attorneys note that unionization could place the university in direct conflict with the Lutheran Church. If the NLRB recognizes Local 925 as the adjuncts' exclusive bargaining agent, union officials will be empowered to negotiate over terms and conditions of employment with Pacific Lutheran University. Those negotiations could force university administrators to make concessions that contradict the school's religious mission, such as mandating certain services opposed by the church under the university's health plan.

Foundation attorneys also argue that adjunct professors are considered managers under the National Labor Relations Act, rendering them statutorily ineligible for unionization.

"Aided and abetted by a pliant NLRB, Big Labor is taking aim at religiously-affiliated universities," continued Semmens. "The SEIU's ultimate goal is to force more people to pay union dues, even if it means infringing on the liberty of religious institutions." 

Worker Advocate Warns Congress of NLRB's Proposed Rule Changes

Foundation staff attorney explains that "ambush" election rules would undermine workers' rights

WASHINGTON, DC – In early March, National Right to Work Foundation staff attorney William Messenger testified before the U.S. House Committee on Education and the Workforce on the dangers of the National Labor Relations Board's (NLRB) proposed election rules.

The committee, which is chaired by Rep. John Kline (R-MN), held a hearing entitled "Culture of Union Favoritism: The Return of the NLRB's Ambush Election Rule" on a series of election rule changes proposed by the NLRB that would leave employees uninformed about potential downsides to unionization. Most significantly, NLRB's rule changes would dramatically shorten the period between when union organizers submit a petition for a unionization election and the date of the vote.

Messenger's testimony highlighted the importance of giving workers time to consider the pros and cons of unionization before holding such an important vote. Unionization elections determine whether union officials are empowered to negotiate terms and conditions of employment for all workers in a given bargaining unit. In states without Right to Work laws, the stakes are even higher: If union officials get in, they can force all employees to pay union dues as a condition of employment, even those who have no interest in joining or supporting the union.

Foundation staff attorney criticizes rule changes

"Once again, the Obama NLRB is attempting to tilt the playing field in Big Labor's favor," said Mark Mix, President of the National Right to Work Foundation. "We're doing everything we can to expose this for what it is: another giveaway by the Obama Administration to its union boss allies."



Foundation staff attorney William Messenger testified before Congress on the dangers of the NLRB's proposed election rule changes.

Messenger, a veteran Foundation staff attorney who has argued before the U. S. Supreme Court, pointed out that dramatically shortening the period before unionization elections will hurt workers' ability to cast an informed vote.

"The short time frame under the proposed rules will make it extremely difficult, if not impossible, for individual employees opposed to unionization to organize against a union's well-funded and professionally orchestrated campaign to win the monopoly bargaining privilege," wrote Messenger in testimony submitted to the Committee for the hearing.


NLRB proposals threaten worker privacy

Messenger also criticized a proposed rule change that would require employers to hand over workers' contact information - including phone numbers,

email addresses, and schedules - to aggressive union organizers.

Messenger described the NLRB's proposal as "a serious invasion of employees' personal privacy—namely, the disclosure of their private phone numbers, email addresses, and work schedules to unions, and thus to officials and supporters."

According to Messenger, it "is both foreseeable and inevitable" that union supporters "will misuse this information for wrongful purposes," including the harassment of employees who vocally oppose unionization.

"Big Labor thrives on employee ignorance, which is why union politicians are eager to shorten the time period before a unionization election," continued Mix. "The National Right to Work Foundation, which represents thousands of employees nationwide, opposes these changes because they would prevent workers from making an informed decision about unionization." 

Alaska Worker Challenges Illegal Teamsters Union Boss Forced Dues Grab

Union officials ignored employee's rights to refrain from union membership and full dues payments

WASILLA, AK – With the help of National Right to Work Foundation staff attorneys, a First Student employee has filed federal unfair labor practice charges against her employer and the General Teamsters Local 959 union for demanding she join the Teamsters or lose her job and forcing her to pay full union dues.

Ruth Chester, an administrative aide with First Student, has never been a member of Local 959. Despite her decision to refrain from union membership, Teamster officials demanded she join the union and pay full dues.

Within the past six months, moreover, First Student has deducted full union dues from Chester's paycheck and passed them on to Local 959, even though Chester has never authorized those deductions. Federal labor law prohibits dues collection without a signed dues checkoff authorization card.

"Teamster bosses – aided by pliant company officials – are ignoring federal labor law to collect full dues from an employee who has no interest in joining or supporting their union," said Ray LaJeunesse, Vice President of the National Right to Work Foundation.



Foundation staff attorneys have helped several First Student employees assert their rights.

"Foundation staff attorneys have intervened to ensure Ruth Chester's rights are respected."


Employee rights limited in non-Right to Work states

Because Alaska lacks a Right to Work law, employees can be forced to pay union dues or fees as a condition of employment. However, workers have the right to refrain from formal union membership and opt out of paying union dues for activities unrelated to workplace bargaining, such as political activism and members-only events.

Unions are also required to provide objecting nonunion employees with an independently-audited breakdown of their financial expenditures to help workers determine what dues they are legally obligated to pay. Teamster officials never provided Chester with any information on her financial obligations to the union.

Chester's charges will now be investigated by the National Labor Relations Board, a federal agency responsible for administering private sector labor law.

"First Student and the Teamsters both have troubling histories of ignoring workers' rights," continued LaJeunesse. "Foundation staff attorneys have represented other First Student employees in Alaska, Ohio, and Oregon whose rights were also violated by union officials."

"We hope these charges will force the company and the union to respect employees' rights to refrain from union membership and the payment of full dues," said LaJeunesse. "However, this type of abuse will continue as long as Alaska lacks a Right to Work law, which would make union membership and dues payments voluntary." 

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Union Officials Stall

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from presenting to the government their own views about [monopoly] bargaining. Instead, their views are presented by a Union they never had an opportunity to vote upon.”

Furthermore, the Regional Director’s “repression of individual freedom would seem appropriate only for some dark gulag.”

“Applying the plain language of the [law] gives employees great freedom of choice,” the brief continues. “No longer will they be chained, as here, to a forty-year sentence... The oppression of the old and stale will be replaced with the freedom that comes from an opportunity for a voice and a vote.”

“The FLRA should follow the letter of the law and allow these workers to determine their workplace representation themselves,” said Patrick Semmens, Vice President of the National Right to Work Foundation. “No worker should be forced to accept a union’s representation without a say in the matter.”

Newsclips Requested

The Foundation is always on the lookout for stories exposing union boss corruption, mismanagement, and abuse. Please clip any stories that appear in your local paper and mail them to:

**NRTWLDF
Attention: Newsclip Appeal
8001 Braddock Road
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**Supporters can also email online stories to
wfc@nrtw.org**



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

It all started simply enough, but in the end we may have changed the future of the American auto industry.

Just over a year ago, your Foundation began hearing reports of a UAW card check drive at Chattanooga’s Volkswagen plant. We responded by running ads in Chattanooga to let the workers there know they could turn to the National Right to Work Foundation to defend their rights.

Without Foundation-provided legal aid, it’s all but certain that the UAW would have been installed by an unreliable and coercive card check drive. Instead, workers forced a secret ballot election and overcame extraordinary odds (see our cover story) to eventually vote against unionization, 712 to 626.

It should have ended there, but the UAW instead turned to the NLRB to overturn the election. With Volkswagen refusing to defend the results, UAW bosses assumed it would be easy to get the workers’ decision overturned.

Once again, Foundation staff attorneys sprang into action, successfully arguing that if VW wouldn’t defend the vote against the union, its employees should be allowed to. Faced with real opposition from Foundation staff attorneys, the UAW eventually withdrew their challenge to the election result and the Volkswagen workers’ vote against the UAW was certified.

There’s no question in my mind that the Foundation’s free legal aid program was the difference between a successful UAW card check drive in Chattanooga and the UAW being defeated in a secret ballot vote.

It’s the type of outcome that makes me proud of the work your Foundation does. You should be proud too, because your support makes it all possible.

Sincerely,

Mark Mix