



Foundation *Action*

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Supremes Split on *Friedrichs*; Other Cases Against Forced Dues Proceed

Five current Foundation lawsuits are challenging forced union dues on First Amendment grounds

WASHINGTON, DC – In March, a deadlocked Supreme Court handed down an evenly split ruling in *Friedrichs v. California Teachers Association*, a case that challenged public-sector union officials' forced-dues powers. The 4-4 decision was widely anticipated by legal observers across the ideological spectrum after Justice Antonin Scalia's unexpected death in February. Although the judicial tie leaves the status quo unchanged and precludes the possibility of ending public-sector forced dues in the near term, National Right to Work Foundation staff attorneys had already been working on five other cases that explicitly challenge various mandatory union dues or fees as a violation of employees' First Amendment rights.

"It's a disappointing result, not just for Rebecca Friedrichs and her co-plaintiffs, but for all civil servants who are forced to pay dues to unions they don't belong to or support," said Mark Mix, president of the National Right to Work Foundation. "However, the fight against compulsory unionism is a marathon, not a sprint. Right to Work staff attorneys are already involved in five active cases that challenge the constitutionality of forced dues."

Scalia's death casts shadow over *Friedrichs*

Friedrichs was brought by 10 California public school teachers who



The Supreme Court's split 4-4 decision in Friedrichs v. California Teachers Association was a setback for workplace freedom, but Foundation staff attorneys are already working on other cases that challenge forced union dues.

have to pay dues to a union they don't belong to as a condition of employment. In oral arguments, the plaintiffs' attorney pointed out that union bargaining in the public sector cannot be separated from controversial political questions about the size and scope of government. The Supreme Court has long held that no employee can be forced to pay dues for union politics, and the plaintiffs argued that the dues they are forced to pay for union bargaining fall squarely into that category.

Several of the justices seemed sympathetic to this argument, including Justice Scalia, who, had he lived longer, likely would have cast the deciding vote in favor of the plaintiffs. However,

Scalia's untimely death left the Court deadlocked over the constitutionality of

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Deadlocked Supreme Court Won't Derail Foundation's Strategic Legal Program

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public-sector forced dues. Friedrichs and her attorneys are now seeking a rehearing of the case after a ninth justice is appointed to the High Court, but it is not considered likely that the Court will grant that request.

Foundation cases against forced union dues proceed

In the event that the *Friedrichs* case is not reheard, five other cases brought by National Right to Work Foundation staff attorneys are poised to again raise the issue of compulsory union dues before the High Court.

In Chicago, Foundation attorneys are representing three Illinois civil servants who are challenging state law that requires them to pay dues to a union they do not belong to or support. Foundation staff attorneys have raised similar objections to compulsory dues for civil servants in Kentucky, Connecticut, and Massachusetts. All of these cases were delayed while the lower



Rebecca Friedrichs' case resulted in a 4-4 deadlock at the Supreme Court, but questions about the constitutionality of forced union dues aren't going away.


courts waited for the Supreme Court to issue a *Friedrichs* ruling. Now that a decision has been handed down, all four of these cases will proceed.

In addition, Foundation staff attorneys are also helping a group of American Eagle Airlines employees

challenge forced union dues in the rail and airline industries. Although these employees work in the private sector, the Supreme Court has ruled that because the Railway Labor Act effectively mandates forced fees and doesn't allow state Right to Work laws to protect airline and railway workers, the constitutional issues at stake are the same as for government employees forced to associate with and subsidize unions through mandatory fees. Consequently, a victory for transportation employees would also end public-sector forced dues.

The ultimate success of these cases could rest on who is eventually appointed to the High Court's Scalia vacancy. Foundation staff have highlighted the troubling judicial record of Merrick Garland, the current Supreme Court nominee, whose rulings have consistently sided with union lawyers and federal labor board bureaucrats. Right to Work researchers are also preparing to vet future nominees if Garland is blocked or withdraws from the nomination process.

"Thanks to a series of recent Foundation legal victories, there are now serious doubts about the constitutionality of mandatory union dues in the public sector," said Mix. "Although we are disappointed by the outcome in *Friedrichs*, we are already pursuing several cases that build on those victories to challenge the constitutionality of public-sector forced dues. The battle to protect employee freedom is far from over, and the National Right to Work Foundation has no intention of stopping now."

"We look forward to the day when all civil servants, including Rebecca Friedrichs, are freed from the injustice of being forced to hand over a portion of their hard-earned paycheck to union officials they oppose," said Mix. 

Foundation Action

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Connecticut State Trooper Files Lawsuit over Union Boss Retaliation

Veteran police officer was transferred out of prestigious SWAT position for defending his rights

HARTFORD, CT – In early March, National Right to Work Foundation staff attorneys helped a Connecticut State Trooper file a lawsuit in federal district court against the Connecticut State Police Union (CSPU), the CSPU's president, and the state's Commissioner of the Department of Emergency Services and Public Protection (DESPP). According to Sergeant Joseph Mercer, union officials conspired to retaliate against him because he refrained from joining the union and opted out of full union dues.

Mercer, a veteran state trooper, is a plaintiff in another Foundation lawsuit filed in 2015 that alleges CPSU officials refused to allow nonunion employees to opt out of paying dues for union politics. That case also challenges mandatory union dues and fees as a violation of nonunion state troopers' First Amendment rights.

"My decision to leave the union was the result of years of growing frustration with the union leadership making decisions that had a direct impact on my career and life while not soliciting or considering input from the membership they were supposed to represent," said Mercer. "The 'final straw' was [the] endorsement of political figures that I did not support or personally endorse."

Union orchestrates behind-the-scenes transfer order

Not only did Mercer refrain from full dues-paying union membership, when asked, he also told his fellow state troopers about their rights to leave the union and reduce their dues payments. Despite an unblemished service record dating back 21 years, the CPSU president had Mercer transferred from a prestigious post because he resigned from the union, refrained from supporting its



Sergeant Joseph Mercer, pictured here responding to a bomb threat in 2012, was transferred to an administrative post for defying union officials.

political agenda, and is involved in the earlier lawsuit.

"This is a clear-cut case of union retaliation," said Patrick Semmens, vice president of the National Right to Work Foundation. "Union officials had Sergeant Mercer transferred from a position for which he was eminently qualified because he exercised his right to refrain from full dues-paying union membership and is standing up for his constitutional rights in court."

In May 2015, Mercer was appointed Operations Sergeant to the Emergency Services Unit, a command position that entails significant responsibility for Special Weapons and Tactics (SWAT) training and field operations. Although Mercer has 17 years of SWAT experience, CPSU President Andrew Matthews made several attempts to meet with state police command staff to protest Mercer's appointment because of his nonunion status. In June 2015,

Matthews filed a grievance against Sergeant Mercer's appointment, claiming that a "selection process" was not used to fill the Emergency Services Unit position, even though none of Mercer's union-member predecessors underwent any kind of selection process before getting the job.

In October 2015, Matthews successfully lobbied the Commissioner of the DESPP to have Mercer transferred out of the Emergency Services Unit to an administrative post. Mercer's new position gives him substantially fewer opportunities to work in the field or accrue overtime pay. The transfer order could cost Mercer approximately \$50,000 in overtime pay per year.

Before his transfer, Mercer never received any warnings, reprimands, or other disciplinary actions during his career as a Connecticut State Trooper. Adding insult to injury, Mercer's replacement as Operations Sergeant is a union member who skipped the same "selection process" the union president claimed that Mercer had circumvented.

"The union has gone out of [its] way to attempt to destroy my career and reputation at every possible opportunity," said Mercer.

Public-sector forced unionism breeds abuse

Union officials often resort to workplace retaliation to deter employees from exercising their rights. Many workers toe the union line because they don't want to face reprisals from hostile union officials. Others are too discouraged by the prospect of a lengthy legal battle to assert their workplace rights.

Unfortunately, public-sector forced unionism empowers union officials to collect mandatory dues and gives them immense clout over every employee in a

Foundation Helps 38 Employees Challenge Retaliatory Union Strike Fines

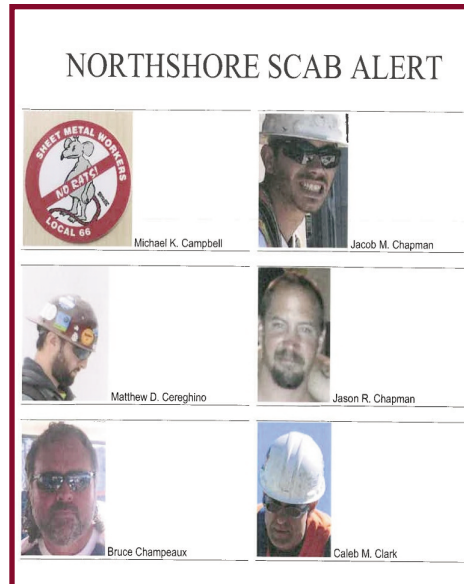
Workers hit with over \$250,000 in total fines for defying union bosses' strike order

EVERETT, WA – In August 2015, Sheet Metals Local 66 union officials in Everett, Washington launched a strike against Northshore Sheet Metals, ordering all union members off the job. However, many of these “union members” had been misled into joining Local 66 in the first place and were unwilling to put their livelihoods at risk. Thirty eight Northshore Metal employees promptly resigned from the union and continued working, but Local 66 officials refused to honor these resignations and subjected the employees to internal union disciplinary procedures. The 38 nonunion employees were then ordered to pay outrageous four- and five-figure sums for defying the union strike order. All of the fines exceed five thousand dollars, and one fine exceeds fifty thousand dollars.

Now, National Right to Work Foundation staff attorneys have intervened to help all 38 employees file federal unfair labor practice charges against the union. The charges contest the union's harsh fines on the grounds that these employees were never voluntary union members and are therefore not subject to internal union discipline.

Union officials misled workers about their rights

“First, Local 66 union bosses misled workers about their right to refrain from union membership,” said Mark Mix, president of the National Right to Work Foundation. “Then, on the eve of a strike that none of these employees wanted to join, they refused to acknowledge the resignations from the union and demanded that the workers participate in the work stoppage. Finally, union officials imposed outrageous strike fines on these workers after subjecting them to trumped-up disciplinary hearings.”



Union officials levied outrageous strike fines and published the names and photos of non-striking workers to discourage employees from defying a union strike order.

“As soon as I went into the trial, they [union officials] gave me a pamphlet,” said Bruce Champeaux, one of the employees who refused to strike. “On the last page was the strike fine. They had already decided before the trial started.”

“Basically, it was kind of a kangaroo court,” added Champeaux.

All 38 employees only joined the Local 66 union because they were wrongfully told that union membership was a condition of employment at Northshore Sheet Metals. After union officials ordered a strike, the employees learned that union membership is voluntary and decided to exercise their rights to resign from the union and refrain from participating in the work stoppage.

Under federal labor law, no employee can be required to formally join a union to keep a job. Employees also have the right to resign from a union at any time, at which point they can no longer be subjected to internal union discipline.

However, Local 66 refused to honor the workers' resignations and are now trying to collect a total of over \$267,000 in illegal strike fines. Moreover, Northshore Sheet Metal continues to deduct – and Local 66 continues to collect – money for a union “strike fund” from all 38 employees' paychecks.

In addition to levying punitive strike fines, the union also posted photographs and names of several nonunion employees on its website in an apparent attempt to discourage other workers from exercising their rights. The targeted employees have since been harassed by union militants for their decision not to participate in the strike.

Case highlights importance of Foundation legal aid

Union officials often use sham disciplinary hearings, punitive strike fines, and other retaliatory tactics to keep independent workers in line. As was the case at Northshore Sheet Metals, many employees are simply unaware of their workplace rights or misled about their legal obligations by unscrupulous union officials. Moreover, few workers have the time or expertise to fight union lawyers in court, even if the union's tactics are legally dubious.

“The National Right to Work Foundation is the only national organization that provides free legal assistance to union-abused employees,” continued Mix. “This role is particularly vital because many employees lack the resources to stand up for their workplace rights. We're here to help these workers navigate the court system and the federal labor bureaucracy, and we've been doing it since 1968. We encourage any employees who are facing similar threats in the workplace to contact us immediately.”

Over 500 California Workers Finally Evict Unwanted Union Bosses

Employees had to overcome legal hurdles to remove one stubborn union

SANTA CRUZ, CA— In March, more than 500 employees at Threshold Enterprises' two Oakland-area facilities were finally freed from unwanted union boss monopoly "representation." After a lengthy legal battle, the National Labor Relations Board (NLRB) certified the outcome of a November election the employees held to remove Teamsters Local 912 from the workplace.

Thanks in part to the efforts of staff attorneys from the National Right to Work Foundation, Tomás Campos was able to spearhead an employee drive to remove the union. Because California lacks a Right to Work law, Campos and his fellow employees were forced to hand over a portion of their paychecks to Local 921 union bosses until they successfully removed the union.

Workers overcome legal hurdles to remove union

As often occurs when employees try to remove a union, union bosses put up a fierce fight to hold on to their forced-dues privileges. Campos presented the NLRB with enough signatures from his coworkers in July 2015 to trigger a




After a lengthy legal struggle, Tomás Campos and his coworkers are finally free of Teamster union bosses.

decertification election to remove the Teamsters. However, the NLRB initially rejected his petition because it wasn't submitted in both English and Spanish, a requirement that is totally unsupported by the relevant case law. Only after Foundation staff attorneys intervened did NLRB officials relent and accept the petition.

In November 2015, the NLRB finally decided to allow Campos and his coworkers to proceed with the decertification vote. In the interim, however, three other Threshold employees who opposed the union's presence were harassed and intimidated by militant Teamster goons. All three workers also say that other employees faced retaliation for opposing the union's presence.

Local 912 lost the vote, but instead of leaving gracefully, union lawyers responded by filing four election objections, three of which were immediately rejected. After holding a hearing on the remaining objection, the NLRB ultimately upheld the election results. Foundation staff attorneys participated in the hearing for Campos.

"Big Labor relies on its special privileges to force workers to pay union dues or fees, so it's no surprise that union officials would resort to harassment to maintain their grip over workers," said Ray LaJeunesse, vice president of the National Right to Work Foundation. "We've helped numerous employees remove unwanted unions, and we will continue to do so to ensure that no worker is forced to pay union dues just to keep a job." 


Connecticut Trooper Files Legal Challenge against Union Boss Discrimination

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unionized workplace, even those who refrain from joining the union. Recent Foundation legal victories have curbed some of the worst union abuses in the public sector, but because the Supreme Court declined to outlaw public-sector forced dues in *Friedrichs v. California Teachers Association* (see this month's **Foundation Action** cover story), many civil servants, including Mercer, are forced to pay union dues to keep their jobs for the foreseeable future.

"Membership in a group should not be mandatory as a condition of employment, especially government employment," said Mercer. "This mandatory membership is a direct violation to my right of free association, in my opinion."

"I also believe that, as public employees and public safety officials, that we should be politically neutral," added Mercer. "We have a duty to serve the citizens of the state regardless of our (or their) political affiliation or beliefs."

"Foundation attorneys are working to end forced unionism for every civil servant in the country," said Semmens. "In the meantime, the Foundation's free legal aid program is aimed at helping employees like Sergeant Mercer stand up to union bosses' scofflaw tactics. Without our legal aid program, workers would have nowhere to turn to defend their rights and union bosses would bully independent employees with impunity." 

Foundation Helps TV Station Employees Fend off Forced Union Fees

Union officials demanded that nonunion workers pay hefty \$2,700 “union initiation fee” or be fired

PORTLAND, OR – Three television station employees in Oregon who had their jobs held hostage turned to the National Right to Work Foundation for help after union officials demanded nearly \$3,000 each in forced dues and initiation fee.

Hannah Button, Peter Marshall, and Lacey Hamerin all work for KOIN TV, a local television station in Portland. When union officials failed to inform them of their right not to formally join the NABET-CWA Local 51 union, billed them for full union dues, and demanded they pay a \$2,700 “union initiation fee” or be fired, they filed unfair labor practice charges with free legal assistance from Foundation staff attorneys.

“Unfortunately, Oregon lacks a Right to Work law, which means that union officials can force these workers to pay certain union fees to keep their jobs,” said Patrick Semmens, vice president of the National Right to Work Foundation. “However, not informing them of their rights to refrain from membership and to avoid paying for union politics, to say nothing of these absurd ‘initiation fees,’ are clear violations of federal law. That’s why Foundation attorneys stepped in.”

Union officials violate federal labor law

In the landmark Foundation-won *Communication Workers v. Beck* case, the United States Supreme Court ruled that private-sector employees could not be forced to pay for union activities unrelated to workplace bargaining, such as union politics. Consequently, union officials must follow several procedural requirements to ensure that these rights are protected.

In the case of all three KOIN TV employees, CWA union officials blatantly ignored these longstanding legal protections.



Nonunion TV employees at a local news station in Portland, Oregon could lose their jobs over an outrageous union boss demand for “initiation fees.”

When Hannah Button joined KOIN TV, union officials failed to inform her of her right to refrain from paying full union dues. In July 2015, Button sent the union a letter announcing her decision to resign and reduce her dues payments. Seven months later union officials finally responded to Button.

They told Button she would still be charged for full union dues for the period before she submitted her resignation letter, despite the fact that she was never informed of her right to resign and reduce her dues payments.

Union officials also claimed that Button still had to pay a full “union initiation fee” of \$2,700, and that the total amount she owed was over \$3,000. Button was given 17 days to pay the \$3,000 or the union would have her fired.

“It felt like blackmail”

Marshall and Hamerin faced similar demands from union officials when they attempted to resign and reduce


their dues payments. Both were told by union officials that they would lose their jobs if they failed to promptly pay thousands of dollars in union dues and initiation fees.

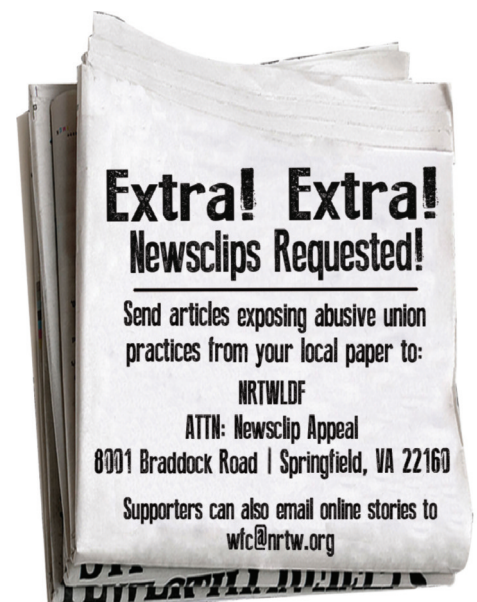
Said Marshall: “Once I found out how much money the union says I owed them to keep my job, I could only think of one thing--Isn’t this the very definition of ‘extortion?’”

Hamerin was also disturbed by union bosses’ demands, saying, “I was shocked and stunned when I found out I had to pay thousands of dollars or be fired. It felt like blackmail.”

Neither of these workers were informed of their rights. They also received no information explaining how the forced dues they supposedly owe were calculated.

The National Labor Relations Board is currently investigating these charges.

“It’s clear from this case that union bosses will go to great lengths to extract as much cash as possible from workers’ paychecks. Oregon should put an end to this abusive practice by passing a Right to Work law, which would ensure that all union dues are strictly voluntary,” added Semmens. 



10 Workers Charge Union for Violating Wisconsin's New Right to Work Law

First Foundation case enforcing Wisconsin's Right to Work law challenges forced dues scheme

WASHINGTON COUNTY, WI – Ten Wisconsin workers turned to National Right to Work Foundation staff attorneys for free legal assistance after they were forced to pay union fees to keep their jobs. None of the workers are members of a workplace union, and Wisconsin's Right to Work law protects their right to refrain from union membership and from paying union dues or fees just to keep their jobs.

"But as we've seen in other new Right to Work states such as Michigan, union bosses often blatantly ignore Right to Work laws and continue to illegally force workers to pay them dues or fees



Wisconsin's recently-enacted Right to Work law is on the books, but unless it's vigorously enforced, Badger State employees won't be able to take advantage of their new workplace rights.

just for the privilege of working," said Ray LaJeunesse, vice president of the National Right to Work Foundation.

All 10 workers work at the Maysteel Industries sheet metal fabrication plant in Allenton, Wisconsin. Before Wisconsin passed a Right to Work law, Maysteel and the International Association of Machinists union entered into a monopoly bargaining agreement requiring workers to pay IAM union dues or fees to keep their jobs.

"However, that monopoly bargaining contract expired on March 4, 2015, and the workers were told by human resources officials that a new contract

See WISCONSIN RIGHT TO WORK page 8

Support the National Right to Work Legal Defense Foundation While Planning for your Financial Future Today!

Now that tax season is behind us, we can expect more economic uncertainty and new tax policy changes with the 2016 elections looming in November. You can secure your future, as well as your family's, right now with a planned gift to the National Right to Work Legal Defense Foundation.

Reviewing your estate plans at this time is crucial for economic security and long-term goals for you and your loved ones. Many options are available for you to make a charitable gift now – or in the near future – to the tax-deductible Foundation.

Gifts of cash are the most common method of making a charitable gift today. Gifts of cash can reduce either regular or alternative minimum income taxes. Your savings

depend on your tax rate and other key factors.

You can also make a gift of stock, mutual funds, or other securities that have increased in value since they were purchased. Appreciated securities are subject to capital gains tax when sold. Gifts of appreciated stock (held for more than one year) may be deducted in amounts totaling up to 30 percent of your AGI limit. Please consider a gift of stock today to invest in the future of the Foundation's legal aid program.

Consider a Bequest Today

Now may be the ideal time to review your will and estate plans to include a gift for the Foundation. Other options include a charitable

gift annuity (not available in all states), charitable remainder trust, charitable lead trust, or outright bequest in your will or trust.

We encourage our supporters to review their plans to provide for their loved ones, as well as their favorite charity, like the National Right to Work Foundation. Please consult your own tax advisor or estate attorney when considering a long-term planned gift.

If you would like more information, please check the box in the enclosed reply device and send your current generous tax-deductible contribution. We will then send you an estate kit for review. You can also contact Ginny Smith at 1-800-336-3600. Thank you for your continued support.

Wisconsin Right to Work

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would not be signed until March 18. This meant that every worker became fully covered and protected by Wisconsin's Right to Work law when it took effect on March 11," added LaJeunesse.

These workers were aware of their new workplace rights, and several of them sent letters to their employer and IAM union officials noting that because the Right to Work law would apply to the new contract, they could no longer be required to pay any fees to the IAM union as a condition of employment.

Union officials responded to the workers' letters by incorrectly stating that the Right to Work law did not apply to the new monopoly bargaining contract. The workers were also told that IAM officials would have Maysteel fire them if they refused to pay.

"Maysteel has continued to illegally deduct union fees from these workers' paychecks, so it's fortunate they turned to National Right to Work Foundation staff attorneys for help to ensure that their new workplace rights are fully enforced and protected," continued LaJeunesse.

Foundation staff attorneys filed charges against Maysteel and the union in Wisconsin State Circuit Court in March 2016.

"This is not the first union scheme to siphon off money from workers' paychecks," said LaJeunesse. "Luckily, these workers knew their rights and are able to fight back with the help of Foundation attorneys." 

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and other Right to
Work updates, visit
www.nrtw.org**



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

When the U.S. Supreme Court left in place a lower court ruling upholding forced union dues, forced unionism advocates could hardly contain their glee.

"Earthquake Averted: Public Unions Dodge Bullet With Supreme Court Tie" read one headline. "Antonin Scalia Has Saved Labor Unions" cheered another, noting that only the Justice's sudden death had protected union bosses' outrageous forced-dues powers.

Obviously, the 4-4 split is disappointing when just weeks ago it seemed likely that millions of public-sector employees would finally be freed from being forced to hand over a portion of their paychecks to union bosses they don't support just to work for their own government.

But the very fact that we are now just one justice away from ending public-sector forced dues is a testament to the work your support of the Foundation makes possible. As the briefs in *Friedrichs* make clear, without Foundation-won Supreme Court cases like *Knox* and *Harris*, we would never have been this close.

And you can be sure of another thing: the legal fight to challenge the constitutionality of forced union dues is far from over.

Even if the High Court declines to rehear the *Friedrichs* case, National Right to Work Foundation staff attorneys already have additional cases moving through the legal system that could strike down forced union dues on the grounds that they violate the First Amendment rights of employees.

Bringing a case from a state labor board or federal district court all the way to the United States Supreme Court is a long and resource-intensive process.

That's why I am honored to have your continued support of the National Right to Work Foundation so our fight against compulsory unionism can carry on.

Sincerely,

Mark Mix