



# Janus v. AFSCME

## A Foundation Victory for Worker Freedom

The National Right to Work Legal Defense Foundation

Foundation *Action* Special Edition

# Supreme Court Strikes Down Forced Dues

WASHINGTON, D.C. – On June 27, 2018, the U.S. Supreme Court ruled in *Janus v. AFSCME* that non-union government workers cannot be required to pay union fees as a condition of working in public service. This landmark case restores the First Amendment rights of free speech and freedom of association to more than 5 million public school teachers, first responders, and other government workers across the country.

*Janus*, argued at the Supreme Court in February by veteran National Right to Work Foundation staff attorney William Messenger, is the 18th case Foundation staff attorneys have brought before the highest court in the land.

“I’m thrilled that the Supreme Court has restored not only my First Amendment rights, but the rights of millions of other government workers across the country,” said Mark Janus, plaintiff in the case and a child support specialist for state government in Illinois. “Across the country, so many of us have been forced to pay for political speech and policy positions with which we disagree, just so we can keep our jobs.”

### Forced Union Fees for Public Sector Workers Violate First Amendment

Illinois is among 22 states that have required many government workers to pay union fees as a condition of employment. Janus has worked for state government in Illinois as a child support specialist since 2007.

Over the past decade, he was forced to pay thousands of dollars



**Plaintiff Mark Janus discussed his victory on the steps of the U.S. Supreme Court, alongside Illinois Governor Bruce Rauner, whose lawsuit initiated the case in which Janus intervened with Foundation free legal aid.**

in union fees to the American Federation of State, County and Municipal Employees (AFSCME) – even though he opposes many of the union’s positions on public policy issues, felt he would be better off without the union’s so-called representation, and was never asked if he wanted to be covered by a union contract.

Now that the Supreme Court has ruled in his favor, Janus will not be required to pay these union fees.

“Under Illinois law, public employees are forced to subsidize a union, even if they choose not to join and strongly object to the positions the union takes in collective bargaining and related activities,” wrote Justice Samuel Alito in the Supreme Court’s opinion. “We conclude that this arrangement violates the free speech rights of nonmembers by compelling them to subsidize private speech on matters

of substantial public concern.”

### Union Bosses Must Obtain Affirmative Consent

The Supreme Court’s opinion further holds that the opt-out schemes that union bosses use to trap workers into paying dues without consent are unconstitutional. In their briefs for *Janus*, Foundation staff attorneys had asked the Court to settle that important issue.

Justice Samuel Alito wrote in his opinion for the Court that charging nonmembers union fees violates the First Amendment “unless employees clearly and affirmatively consent before any money is taken from them.”

The day after *Janus* was issued, the Court vacated the decision of the U.S. Court of Appeals for the Seventh Circuit in another

# THE BATTLE FOR

## **The Path to Janus**

The victory in *Janus v. AFSCME* builds on decades of legal battles waged by Foundation staff attorneys for independent-minded workers. This difficult journey – and the continued legal action necessary to enforce the decision – would not be possible without the generosity of Right to Work supporters.

### **1977 - *Abood v. Detroit Board of Education***

The precedent established by the Supreme Court's decision in *Abood* impacted millions of public employees. The Court ruled that although union officials could not constitutionally spend objectors' funds for some political and ideological activities, union officials could require fees to subsidize collective bargaining and contract administration as a condition of government employment.

### **1986 - *Chicago Teachers Union v. Hudson***

The Court unanimously held that the First Amendment requires certain procedures to be followed before forced fees can be collected from public employees, such as providing information on the union's justification of the compulsory fee amount.

### **2007 - *Davenport v. Washington Education Association***

The Court ruled that, because unions do not have a constitutional right to collect fees from nonmembers, a state may require unions to obtain affirmative consent before spending nonmember public employees' forced fees on political activities. The ruling thus reaffirmed states' ability to pass Right to Work laws.

### **2012 - *Knox v. SEIU***

Brought by Foundation staff attorneys, *Knox* prompted the Supreme Court to question the *Abood* precedent. The Court held that union officials must obtain affirmative consent from workers before using workers' forced union fees for special assessments or dues increases that include union politicking.

### **2014 - *Harris v. Quinn***

The Supreme Court *Harris* decision, in which the Foundation assisted a group of Illinois home care providers in challenging a state scheme that authorized SEIU officials to charge the providers union fees, heavily criticized *Abood* and further opened the door for the Court to revisit the precedent.

### **February 2015 - Lawsuit Filed**

Illinois Gov. Bruce Rauner filed a federal lawsuit against the collection of forced fees from state employees, asking for a judgment that the forced fee provisions violate the First Amendment.

“I wanted to thank you and Bill Messeng  
*vs AFSCME*. Without your assistance this  
– Mark Janus in a personal letter to t



**Donald J. Trump** @realDonaldTrump · Jun 27

Supreme Court rules in favor of non-union workers who are now able to support a candidate of his or her choice without having t the Union deciding for them. Big loss for the coffers of the Dem

🗨 12K 🔄 23K ❤ 101K ✉

“The biggest labor case of the cen  
– The Washington Post

“*Janus* decision biggest victory for work  
rights in a generation”  
– Chicago Sun Times



**Senator Rand Paul** @RandPaul · Jun 27

I commend the court, applaud the decision their team for their hard work and persever freedom.

🗨 65 🔄 472 ❤ 2.4K ✉

“It is hard to estimate how many billi  
from nonmembers and transferred to p  
of the First Amendment. Those uncon  
allowed to continue indefinitely.”  
– Justice Samuel Alito, writing for the

# WORKER FREEDOM

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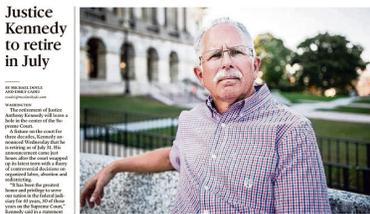
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Times can't force dues

and congratulate @RightToWork and nance on this important issue of

ions of dollars have been taken public-sector unions in violation nstitutional exactions cannot be

majority in *Janus v. AFSCME*



**Supreme Court rules unions can't force dues from nonmembers**  
“SO MANY OF US HAVE BEEN FORCED TO PAY FOR POLITICAL SPEECH AND POLICY POSITIONS WITH WHICH WE DISAGREE. DOES SO WE CAN KEEP OUR JOBS. THIS IS A VICTORY FOR ALL OF US.”  
Mark Janus, a child support specialist for the Illinois Department of Healthcare and Family Services, became the plaintiff in *Janus v. AFSCME*.

## March 2015 – Foundation Steps In

Foundation attorneys filed a motion for three Illinois government employees, including Mark Janus, to participate as plaintiffs in the legal challenge brought by Gov. Rauner. While the court ruled that Gov. Rauner did not have the standing necessary to pursue his complaint, it granted the Foundation’s motion and made the workers complaint the operative one in the case. The challenge lived on, becoming *Janus v. AFSCME*.

## September 28, 2017 – Rising to the Supreme Court

The U.S. Supreme Court agreed to hear *Janus* with arguments to be held in early 2018.

## December 2017 – Support for Janus

More than 20 amicus briefs were filed in support of the Foundation’s position. The briefs were filed by a wide variety of policy groups and individuals, including the past president of the Vermont American Federation of Teachers Union, the Attorneys General of 20 states, and the Solicitor General of the United States Government.

## February 26, 2018 – Janus Argued at Supreme Court

*Janus* was argued by Foundation staff attorney William Messenger, who addressed the media afterward.



## June 27, 2018 – U.S. Supreme Court Decision

The Supreme Court announced their decision in favor of Janus, ruling that no government employee can be forced to pay union fees as condition of employment.

## June 28, 2018 – Riffey v. Rauner

The Supreme Court vacated a Court of Appeals decision against in-home care providers seeking to recover \$32 million in unconstitutionally seized union fees. The Court of Appeals must reconsider in light of the *Janus* precedent.

## 2018 and Beyond

The Foundation will respond as union bosses scheme to undermine *Janus v. AFSCME* and trap independent-minded public employees in dues-paying ranks. Foundation staff attorneys are already providing free legal aid to workers in several ongoing cases that could be opportunities to enforce and even expand the *Janus* precedent.



# Foundation Launches Task Force to Enforce *Janus* Victory

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Foundation-supported case, *Riffey v. Rauner*, for reconsideration in light of *Janus*. The Seventh Circuit had ruled that SEIU officials seizing nonmember in-home care providers' money without their consent did not violate their First Amendment rights unless providers could prove that they affirmatively objected to the seizure.

Now, thanks to the *Janus* victory, the providers can continue their case seeking a return of the \$32 million in union fees unconstitutionally seized by the SEIU.

## Fight for Freedom from Compulsory Unionism Far from Over

"This victory represents a massive step forward in the fight to protect American workers from forced unionism, but that fight is far from over," said Mark Mix, president of the National Right to Work Legal Defense Foundation. "Union officials and their allies in state governments have already taken steps to prevent workers from exercising their rights under the *Janus* decision, while millions of private sector workers in states without Right to Work protections are still forced to pay union fees or else be fired."

"Further," continued Mix, "workers of all stripes continue to have their freedoms of association violated by being forced under union monopoly 'representation' against their will. So while we celebrate today's decision, there remains much work to do to both enforce and expand upon this historic victory over coercive unionism."

A Supreme Court victory is only the beginning of the fight to ensure protections for independent-minded public sector workers against forced union fees. That's why the National Right to Work Legal Defense Foundation has created a task force to enforce the new



*Foundation President Mark Mix appeared on Fox News in front of the Supreme Court to discuss the *Janus* ruling's protections for public employees' rights.*

precedent set in *Janus v. AFSCME*, defending the rights of government employees and standing up to union bosses who attempt to circumvent and undermine the new protections.

The Foundation is offering free legal aid to all government workers who wish to refrain from union membership and union payments. The Foundation's 20 staff attorneys defend workers' rights in more than 200 cases each year, all at no cost to the employees aided.

The Foundation's *Janus* Task Force includes Messenger and other staff attorneys who worked on the case.

## MyJanusRights.org Offers Free Legal Assistance to Public Employees

The National Right to Work Foundation has also established a stand-alone website to assist workers in learning their rights and providing guidance on how to exercise them. That site, [www.MyJanusRights.org](http://www.MyJanusRights.org), directs workers to the Foundation's legal aid program for free assistance in exercising their First Amendment rights protected by the *Janus* decision.

Foundation legal aid can also be

obtained through [www.nrtw.org](http://www.nrtw.org) or by calling 1-800-336-3600.

"The victory in *Janus* means that public-sector workers can no longer be forced to pay dues or fees to union officials to keep their jobs," said Mix. "Unfortunately, experience shows us that union officials frequently ignore restrictions on their power over workers, which is why we are establishing this task force to assist workers who want to enforce their new *Janus* rights."

The Foundation has a long history of assisting employees seeking to exercise their Right to Work protections. Defending and enforcing Right to Work protections has long been one of the most critical tasks Foundation staff attorneys undertake.

Any public sector worker who has questions about his or her rights, or encounters any resistance or abuse while trying to exercise his or her workplace rights, is encouraged to contact Foundation staff attorneys for free legal aid. ✚

**For more on the landmark  
*Janus* case, please visit:  
[www.nrtw.org/Janus](http://www.nrtw.org/Janus)**