



# Foundation Action

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

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## After Ballot Box Stuffing Incident, Workers' Fourth Vote Finally Removes UAW

*Case highlights the difficulties workers face when attempting to remove an unwanted union*

HAMILTON, AL – Workers at a local ball-bearing manufacturing plant in northwestern Alabama had enough. After continuing to work during a United Auto Workers (UAW) union boss-ordered strike in 2007, union goons shouted racial slurs toward black and Latino employees and damaged the cars of workers who continued to work during the strike. One worker's two dogs mysteriously died of poisoning while another went missing.

"One of my supervisors mentioned my dog was missing," National Right to Work Foundation-assisted NTN-Bower employee Ginger Estes told The Daily Caller News Foundation. "Her brother at the time was the [local] UAW president."

After the National Labor Relations Board (NLRB) forced the company to rehire several workers who participated in that violent strike in 2007, Estes and several of her NTN-Bower coworkers requested an election with the NLRB in May 2013 to determine whether to remove the UAW union from their workplace.

### Ballot box stuffing mars third vote

In the first federally-supervised union election on June 21, 2013, the workers voted by a 20-vote margin to remove the UAW union. UAW union officials filed objections to the election,



**Employees at an NTN-Bower ball-bearing plant in Alabama rally against the UAW in the run-up to their fourth vote to remove the unwanted union from their workplace (photo credit: The Daily Caller).**

and the NLRB regional office in Atlanta threw out the results. Union and company officials then agreed to allow the workers to vote in a second election.

In the second election, held on November 1, 2013, workers voted to remove the union by a margin of two votes. Union officials again challenged the results of that election and a 2-1 panel of the Obama Labor Board voted to invalidate the results and schedule a third election.

On January 16, 2015, workers voted a third time to determine whether to remove the UAW union from their workplace. Even though 139 workers voted in the third election out of the 140 eligible, 148 ballots were cast. Union operatives challenged four of the ballots, including Estes' ballot, which were not counted. UAW union officials again, by

a narrow margin, avoided being kicked out of the workplace in the third election, an election tainted by ballot box stuffing and mishandled ballots.

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## Alabama workers fight NLRB obstruction to remove unwanted union

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After Estes formally challenged the results of the tainted third election based on the mishandling of ballots, and after some legal wrangling, the NLRB and all parties agreed to hold a fourth election.

Finally, in late February, the workers voted 82-50 to remove the UAW union hierarchy from their workplace.

“The third vote is a good example of a rigged election, characterized by obvious ballot box stuffing and the mishandling of ballots,” said Mark Mix, President of National Right to Work. “This case, in which it took the workers four elections to get a definitive result, underscores the difficulty workers often experience when trying to remove unwanted unions from their workplaces.”

### NLRB making it more difficult to remove unions

Although the spurious objections UAW union officials concocted to block



Estes and her coworkers' efforts seem extreme, similar tactics have become standard operating procedure under the Obama Labor Board for union bosses seeking to block workers' efforts to remove unwanted unions.

In several other cases across the country, union officials have filed federal charges to stymie workers' efforts to remove unwanted unions. NLRB General Counsel Richard Griffin and other NLRB bureaucrats from the top-down have been willing to oblige, delay-

ing workers' decertification elections for months or years while keeping union bosses in power.

Foundation staff attorneys are assisting workers across the country who are experiencing union officials' exploitation of the federal agency's bias to block their right to remove unwanted unions from their workplaces. In those cases, Griffin and other NLRB bureaucrats have attempted to foist unwanted union representation back onto workers in California and Illinois, impounded workers' ballots in Washington State, and moved to exclude workers from the legal proceedings in Arkansas.

Griffin, a former union attorney, is also pushing a new policy under which union bosses can file federal charges to block employers from withdrawing recognition of a union as the workers' monopoly bargaining representative even if a very clear majority of the workers indicate their desire to remove the union from their workplace. This new policy gives Griffin the power to prosecute a company that withdraws recognition of an unwanted union, even at workers' behest.

“While the NLRB's top lawyer works to eliminate workers' ability to persuade a company to voluntarily revoke recognition of an unwanted union, the NLRB still maintains that a company can recognize a union if a majority of workers sign union 'cards' collected during an abusive 'card check' organizing drive,” said Mix. “Under federal labor law, which is supposed to protect workers' rights, one of the NLRB's core functions is to conduct and oversee workers' elections to remove unwanted unions.”

“Unfortunately, the Board can't even handle this responsibility without injecting its pro-forced unionism bias, thus blocking workers' efforts to remain free from union boss control.” 

## Foundation Action

Rev. Fred Fowler  
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## Firefighter Wins Settlement that Protects His Religious Rights from Union

### *Union scheme required fire captain to hand over annual leave to union officials*

SAN FRANCISCO, CA – Thanks to the help of National Right to Work Foundation staff attorneys, a California Department of Forestry fire captain has obtained a settlement from his employer that protects his freedom of conscience in the workplace.

John Valentich, a veteran firefighter, objected to a clause in the bargaining agreement between his employer and the CAL FIRE Local 2881 union that requires all employees – even those who are not union members – to “donate” three hours of annual leave each year for union activities. Valentich is a religious objector who wishes to refrain from affiliating with the union because of its support for causes he opposes.

“There were several problems I was having [with the union],” said Valentich. “The one that stuck out the most was paying dues and leave credits to a labor union that was financially supporting the abortion cause.”

“Employees should never be forced to pay dues or donate leave to an organization that offends their deeply-held religious convictions,” said Ray LaJeunesse, Vice President of the National Right to Work Foundation. “Foundation attorneys have won virtually all of the legal precedents that allow workers to refrain from supporting a union when doing so conflicts with their sincere religious beliefs.”

### **Religious objector faced tough legal battle**

In November 2013, Valentich filed charges challenging the annual leave policy with the California Department of Fair Employment and Housing and the Equal Employment Opportunity Commission in San Francisco.

The charges cited Title VII of the Civil Rights Act, which forbids discrim-



**Foundation staff attorneys helped California firefighter John Valentich defend his religious rights in the workplace.**

ination against religious employees and requires companies and unions to reasonably accommodate workers' sincerely-held religious beliefs.

This isn't the first time Valentich has filed charges to defend his religious convictions from union interference. In 2012, Right to Work attorneys helped Valentich ensure that the union dues he's required to pay to keep his job were diverted to a charity, instead of being used to fund union activities.

However, Valentich later learned that he still had to support Local 2881 through a union-negotiated policy that required that he donate leave for union activities.

### **Settlement highlights need for California Right to Work**

“Knowing what the union has supported and continues to support was unsettling to me,” said Valentich. “I

would attend church on Sunday and on Monday I was supporting the California Dept. of Forestry Firefighter's Union.”

Under the settlement, CAL FIRE union officials will determine based on Valentich's salary the monetary equivalent of the three hours of leave he is required to hand over. That sum will then be donated to a nonreligious, non-labor charitable organization approved by the State of California.

“We're happy to report that Mr. Valentich has obtained a settlement that protects his beliefs,” said LaJeunesse.

“However, many California employees with political or religious objections to supporting a union are still forced to pay dues,” continued LaJeunesse. “One seasonal employee, about whom you'll read later in this issue, actually received a paycheck for zero dollars after union dues deductions. That's why California needs a Right to Work law, which would make union membership and dues payments voluntary.”

## Construction Worker Wins Thousands After Illegal Union-Ordered Firing

**Owner of company that helped union officials violate worker's rights opposes Right to Work laws**

COLORADO SPRINGS, CO – A Colorado Springs worker won thousands of dollars in back pay and illegally-seized union dues from a Brownsville, Wisconsin-based construction company and a Colorado-based union after they violated his right to refrain from full-dues-paying union membership and illegally fired him for trying to exercise his rights.

The settlement came as media reports surfaced about the construction company's owner, a Republican Party "mega donor," and his opposition to establishing Right to Work protections for private sector workers in Wisconsin.

### Worker threatened for refusing to join union

Paul Castle of Fountain, Colorado, was hired by Michels Corporation in August 2014. Shortly after he was hired, Laborers' International Union of North America (LIUNA) Local 578 officials demanded he become a full dues-paying union member.

"I am a Marine veteran, a fifth generation Colorado hard rock miner, and not afraid to stand up for myself," said Castle. "I love this country and do not believe that unions are serving the nation's best interest."

"I have never belonged to a union and I could see no advantage to belonging to this one," added Castle.

Because Colorado does not have a Right to Work law, workers can be forced to pay union dues as a condition of employment. However, the United States Supreme Court held in the Foundation-won *Communication Workers v. Beck* decision that nonmember workers cannot be compelled to pay the portion of union dues used for the union's political and member-only activities. Union officials are also legally



**The owner of a construction company accused of violating a worker's rights in Colorado wants to steam-roll Right to Work in Wisconsin.**

obligated to inform workers of these rights and to provide workers with an independently-verified audit of chargeable and non-chargeable expenses.

When Castle notified union officials that he was refraining from union membership and full dues payments, they told him that they would not comply with the procedural requirements established under *Beck*.

### Firing spurs federal charge

On August 19, LIUNA Local 578 officials sent Castle a letter threatening him with discharge because he was "delinquent" in his dues for the months of August and September. Union officials demanded that Castle pay full union dues even though he had already informed them that he was refraining from union membership.

Because of the threats, Castle tried to pay the union the full dues he supposedly owed in order to keep his job. Instead of accepting the money, LIUNA Local 578 union officials refused his good

faith efforts to pay the dues they claimed he owed.

On August 20, Castle was fired by Michels at union officials' behest. Adding insult to injury, the company deducted union dues from his final paycheck even though failure to pay union dues was the stated reason for his illegal termination.

With free legal assistance from Foundation staff attorneys, Castle filed federal unfair labor practice charges against both the company and the union with the National Labor Relations Board (NLRB).

These charges forced company and LIUNA officials to settle with Castle. Under the settlement, Castle received \$6,400 in lost wages and \$91 for the dues taken from his last paycheck. The settlement also requires union officials to send a notice to workers outlining their rights to refrain from union membership and full dues payments.

"I cannot say enough good things about the National Right to Work Foundation," said Castle. "Everyone that I talked to at the Foundation was awesome. I could not have fought for my rights without their help."

"I hope that [company officials] learned a lesson here."

### Company owner's forced unionism agenda exposed

Wisconsin made national headlines after the passage of its 2011 Act 10 labor reforms, which included giving most public sector employees in the state the right to refrain from joining or paying dues to a union as a condition of employment and the right to refuse to accept unwanted union "representation" for matters other than base wages. Since then, the public sector Right to Work law and other monopoly bargaining

## Foundation Files Briefs Challenging Obama Board's Ambush Election Rules

### *Recycled rules allow union bosses to push workers into Big Labor's forced-dues-paying ranks*

WASHINGTON, DC – This February, National Right to Work Foundation staff attorneys filed briefs in two federal courts challenging the National Labor Relations Board's (NLRB) recently-enacted regulations that give union organizers more coercive tools to push unwilling employees into union ranks.

The new rules are designed to dramatically shorten the time individual workers have to share information with their coworkers about the effects of unionization. The regulations also require employers to hand over their employees' private information to union organizers, including personal phone numbers and email addresses.

### Foundation attorneys fight NLRB rule changes

The latest rule changes were rushed out before former union lawyer Nancy Schiffer's term expired on December 16, 2014. The NLRB tried to hastily enact the same rules before former Service Employees International Union (SEIU) lawyer Craig Becker's term expired in December 2011, but they were later invalidated by a 2012 federal court decision on procedural grounds.

"There's no justification for shortening the amount of time workers have to consider the pros and cons of unionization – unless, of course, you're only interested in pushing unwilling employees into union ranks," said Patrick Semmens, Vice President of the National Right to Work Foundation. "Moreover, forcing companies to hand over workers' personal information to unscrupulous union organizers opens the door to harassment, intimidation, and coercion."

Foundation staff attorneys argue in *amicus curiae* ('friend of the court') briefs filed with the U.S. District Courts



**Foundation staff attorneys are challenging new National Labor Relations Board rules that tilt the scales in favor of aggressive union organizers.**

for the District of Columbia and the Western District of Texas that the NLRB's new rules violate federal law. The briefs note that the Board is shirking its statutory duty to determine the scope of the bargaining unit. Under the rules, unionization elections will proceed despite disputes over the unit's scope if less than 20 percent of the bargaining unit's composition is contested.

"It would be absurd for a redistricting commission to assert that it properly defined a congressional district while leaving unresolved whether one-fifth of adjacent counties are in or out of the district," Foundation attorneys argue. "So too is it absurd for the Board to claim it is defining an appropriate bargaining unit while leaving unresolved whether one-fifth of job positions are in that unit."

### New rules leave workers vulnerable to harassment

Foundation attorneys also argue that the rule requiring job providers to hand over employees' personal information to union bosses violates workers' privacy

and encourages the use of coercive organizing tactics.

As Big Labor card check campaigns increasingly replace traditional secret ballot elections, more and more employees have endured coercion and intimidation at the hands of aggressive union organizers. The NLRB's newly-promulgated rules threaten to make the problem of union intimidation during organizing drives even worse.

"Under the NLRB's new rules, the problem of union harassment is only going to increase," said Semmens. "Before these rules were enacted, union organizers could only get their hands on workers' personal contact information if employers agreed to hand it over. Now, even companies with reservations about hanging their employees out to dry will have to give workers' contact information out to aggressive Big Labor operatives."

"Once again, the NLRB has enacted election rules aimed at making unionization campaigns even more one-sided," continued Semmens. "The Obama Labor Board's latest give-away to Big Labor will force unsuspecting workers into union ranks and encroach on the privacy rights of employees who may oppose unionization in their workplace." 

### Newsclips Requested

**We're always looking for news stories that expose abusive union practices. Send articles that appear in your paper to:**

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Springfield, VA 22160**

**Supporters can also email online stories to [wfc@nrtw.org](mailto:wfc@nrtw.org)**

## Worker Receives Zero Dollar Paycheck After Company Seizes Union Dues

### *UPS employee files federal charges to challenge illegal confiscation of union dues*

STOCKTON, CA – During the Christmas holiday season, some workers seize the opportunity to make extra income with the influx of available seasonal jobs in retail, shipping, and other industries. Others see it as an opportunity to get their foot in the door to obtain a full-time job. For former seasonal United Parcel Service (UPS) employee Santiago Olmos, it was both.

“I worked for UPS as a seasonal employee to get extra money and possibly get on as a permanent position,” explained Olmos.

December 2014 was Olmos’ second holiday season working for UPS as a driver-helper assisting full-time drivers with package delivery and pickups during the holiday shipping rush. His goal was to eventually become a full-time driver.

“I had worked very hard to meet the requirements of the driver position,” said Olmos. “And I was delivering over 200-plus packages in the time allotted.”

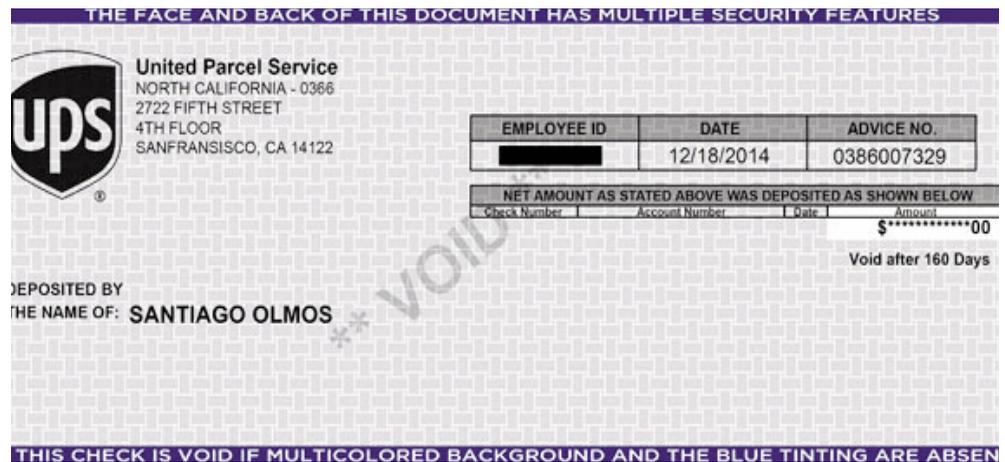
For him, it was challenging and engaging work.

“I excelled at the challenge. It requires a lot of quick adjustments [to excel]. Also as a seasonal driver helper, you are on an ‘on-call’ status, which means that you have to be ready on short notice between 7am thru 4pm. You have to completely rearrange your availability to their needs.”

That’s why Olmos was shocked when he received his first UPS paycheck for 2014.

### **Worker gets zero dollars after dues were deducted**

Shortly after Olmos was hired as a seasonal employee for the Christmas delivery rush, he attended UPS training on December 8, 2014. At the meeting, a UPS manager told all of the employees



**After union dues were illegally deducted from his pay, Santiago Olmos received a check for zero dollars from his employer.**

in attendance that they were required to join the Teamster Local 439 union and pay union dues.

Under federal labor law, workers have the right to refrain from formal union membership and the payment of full union dues. Because California does not have Right to Work protections, non-member workers can be forced to pay a part of union dues and fees or be fired from their job.

However, federal labor law also holds that employees may only be compelled to pay union dues or fees after 30 days of actual employment, a so-called “grace period.” Moreover, union dues and fees may only be deducted from wages after a worker has filled out a union dues deduction authorization – a form union officials use to authorize employers to automatically withhold union dues from employee paychecks.

Olmos only worked for UPS from December 8 to December 24, did not join the union, and did not sign a dues deduction authorization. Despite his temporary status, UPS deducted full union dues from his wages. As a result, Olmos’ first paycheck was for zero dollars.

“I was shocked to see the amount of the check,” said Olmos.

### **Employee’s charge challenges illegal Teamster dues confiscation**

With the help of National Right to Work Foundation staff attorneys, Olmos filed an unfair labor practice charge against UPS with the National Labor Relations Board (NLRB). Olmos hopes to get back the dues illegally seized from his paychecks and open the door for other workers who were unknowingly forced to pay Teamster union dues to get their money back.

“I would like to see that if at all possible, there would be some kind of investigation into this because who knows how long they have been doing this and how many other people this has affected,” said Olmos.

“UPS basically forced Mr. Olmos to work for free just before the Christmas holiday,” said Mark Mix, President of the National Right to Work Foundation. “Once again, this case demonstrates the need for a California Right to Work law, which would make union affiliation and dues payments voluntary. Until that’s enacted, California employees will continue to suffer the indignities of forced unionism.”

# Tax Season is Here! Reduce Your Tax Hit for 2015



The tax deadline is quickly approaching, and many National Right to Work Legal Defense Foundation supporters are considering options to secure tax savings with thoughtful financial planning in 2015.

As this issue of **Foundation Action** goes to print, Congress has yet to establish what changes will take place in 2015 that concern charitable giving and tax incentives for us. The volatility of the stock market and interest rates continue to weigh on supporters who would like to make a gift of cash or stock, or a planned gift in the near future.

As you prepare and file your 2014 tax returns, you should consider what you can do to alleviate your heavy tax burdens in 2015 and beyond. For this reason, you may wish to accelerate the charitable gifts you previously planned to make over a longer period of time. Of course, as in the case of all estate planning and planned gifts, we urge you to consult with your own tax advisor, accountant, or estate attorney to receive the maximum benefit for you and your loved ones while helping your favorite charitable causes.

Here are just a few options that may be the right fit for you and your family in reaching the maximum tax benefit:

- 1. Gifts of Cash** – Provides a tax deduction for the 2015 tax year;
- 2. Gifts of Appreciated Stock/Securities** – If held for more than 12 months, gifts of stock provide a tax deduction for the full market value and no capital gains tax;
- 3. Review plans for an estate gift through a will** – A bequest to the Foundation, the most common form of planned gift;
- 4. Charitable Gift Annuity (CGA)** – Provides a tax deduction in 2015 and an income stream to you for life (please note that CGAs may not be available in all states and require a minimum gift of \$10,000);

**5. Charitable Lead Trusts and Remainder Trusts** – A gift to the National Right to Work Foundation now, return of principal later, or a gift to the Foundation after other beneficiaries have benefited.

All of these options are available for you to consider today. We encourage you to discuss them with your family and trusted financial advisors.

Your continued generosity makes it possible for Foundation staff attorneys to assist courageous employees across the country who are confronting the abuses of compulsory unionism. Your gift today allows the National Right to Work Foundation to sustain and expand its strategic litigation and education programs.

If you have any questions regarding a specific planned gift, or you would like to request a planned giving brochure, please contact Ginny Smith by email at [gms@nrtw.org](mailto:gms@nrtw.org) or by calling at 1-800-336-3600. Thank you for your interest and generosity.

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## Worker Wins Backpay

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reforms have already saved the Wisconsin taxpayer over three billion dollars.

In January 2015, a Wisconsin Election Watch reporter, who is following the state legislature's recent deliberations over extending Right to Work protections to Wisconsin's private sector workers, reported on Michels Corporation owner Tim Michels's opposition to the law.

In fact, Michels, a Republican Party "mega-donor" and former GOP candidate for US Senate, is the leader of a coalition opposed to the passage of a Wisconsin private sector Right to Work law.

"All too often, workers have to file federal charges just to exercise their statutory rights," said Patrick Semmens, Vice President of the National Right to Work Foundation. "In Paul Castle's case, the company's lack of respect for workers' rights starts at the top."

"This case demonstrates the need to make union membership and dues payments completely voluntary for all workers, who often face hostility from powerful and coercive union and company officials just for trying to exercise their rights," added Semmens.

Castle concurs: "I strongly believe that one should be able to belong or not belong to any union at any time. This nation should be Right to Work!" 

**For breaking news and other Right to Work updates, visit the Foundation's website: [www.nrtw.org](http://www.nrtw.org)**



## Message from Mark Mix

President  
National Right to Work  
Legal Defense Foundation

Dear Foundation Supporter,

Every year, millions of workers are forced to pay billions of dollars in union dues. That money is then used by union bosses to "influence" the American political system and our economy.

The scale of the injustice of forced unionism is enormous, but the victims are more than just statistics. Just look at the employees, all fighting back with Foundation legal assistance, featured in this issue of **Foundation Action**:

After an ugly strike in which union goons vandalized employee vehicles, yelled racial slurs, and possibly poisoned family dogs, Ginger Estes and a group of her colleagues decided to remove the UAW from their Alabama workplace. Two votes were overturned by the union and a third was tainted by obvious ballot stuffing, but they eventually got rid of the UAW.

In Colorado, union bosses illegally demanded that Paul Castle join their union and pay full dues. After he refused, they had him fired from his job. Foundation staff attorneys took action and won the former Marine thousands of dollars in pay he lost because of the union and the company's illegal actions.

Veteran firefighter John Valentich found out that the California Forestry Department union was supporting causes that offended his religious beliefs. He thought he had successfully stopped subsidizing the union, only to discover that he still had to "donate" annual leave for union activities. With the Foundation's help, he's finally put an end to that scheme, too.

We're just starting to fight for Santiago Olmos. He took a seasonal job at UPS with the hopes of turning it into full-time work. But his first paycheck was for zero dollars because UPS had illegally taken all the money he earned and turned it over to the Teamsters union.

These are just a few of the millions of victims of compulsory unionism abuses.

Foundation legal aid allows them to fight back, and even establish precedents that can free thousands, or even millions, of other Americans from forced unionism. Your continued financial support makes that all possible.

Thank you!

Sincerely,

Mark Mix