



Foundation Action

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of the National Right to Work
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Freightliner and UAW Face Racketeering Suit for Backroom Sweetheart Deal

Foundation challenges quid pro quo forcing workers into union ranks

CHARLOTTE, NC - Foundation attorneys opened a new front in their national battle against coercive union organizing tactics by filing a federal racketeering complaint against a large subsidiary of Daimler Chrysler and its hand-picked union, the United Auto Workers.

Alleging an illegal *quid pro quo* between Freightliner and UAW officials, five autoworkers from three facilities in North Carolina filed a class-action federal racketeering lawsuit and announced it at a press conference in front of the UAW headquarters in Detroit, Michigan.

The cutting-edge suit, which seeks triple damages, details how union higher-ups entered into a secret arrangement with company executives to force more workers into dues-paying ranks.

Backroom deal sells out workers

The complaint outlines a secret arrangement between Freightliner and the UAW in which union bosses agreed,



Freightliner employees Tim Cochrane (speaking) and Katherine Ivey are joined by Right to Work staff in a press conference outside UAW headquarters in economically-devastated Detroit, Michigan.

in advance, to significant concessions at the expense of the Freightliner workers at its non-union facilities in North Carolina in exchange for valuable company assistance in forcing those workers under a union contract.

According to the terms of the scheme outlined in documents uncovered by the Foundation, UAW officials expressly agreed to limitations on wages, cancellation of an employee profit sharing bonus, an increase in the health care costs shouldered by employees, and other concessions — effectively handing over control of the union to the company.

Freightliner, in turn, agreed to host compulsory “captive audience” meetings on company time during which union organizers could propagandize employees, granted union organizers wide access to unsuspecting employees, and pledged to stay silent about the possible consequences of unionization. In a related Foundation case, the NLRB’s General

Counsel has already deemed this to be unlawful company assistance to the union.

UAW officials outlined their lengthy list of concessions in a once-secret document titled “Preconditions to Card Check Procedure” which was signed by Freightliner and UAW Vice President Nate Gooden. In the earlier Foundation case, the National Labor Relations Board’s General Counsel already found the “preconditions” to be illegal premature bargaining since the UAW union had not yet been selected by a majority of

employees.

In such Top-Down “card check” organizing schemes, employees are frequently coerced or misled into signing “union authorization cards,” which are then counted as “votes” in favor of

see **RACKETEERING**, page 7

IN THIS ISSUE

- 2** Worker Slaps Union with Charges for Blocking His Promotion
- 3** Bill and Carol Barrows : A Profile in Commitment
- 4** Right to Work Helps Gallo Wine Employees in California
- 5** Charitable Trusts : A Flexible Giving Plan

Worker Slaps Union with Charges for Blocking His Promotion

Union bosses retaliated against employee for defending coworkers' constitutional rights

TRENTON, NJ - In July 2005, New Jersey State Department of Environmental Protection (NJDEP) employee Gary Lipsius was told by his department that he would be receiving a promotion and a corresponding raise.

However, before it went into effect, union officials from the Communications Workers of America (CWA) Local 1034 stepped in and successfully lobbied the agency to block the promotion — in direct retaliation for a class-action, civil-rights lawsuit that Foundation attorneys had helped Lipsius file in 2004 against the union for violations of New Jersey public employees' constitutional rights.

In response, National Right to Work Foundation attorneys again came to the New Jersey state employee's aid, filing unfair labor practice charges against the CWA local and the NJDEP.

Union bosses seek payback

Lipsius petitioned the NJDEP for a promotion in 2003 because his ongoing duties more accurately reflected an

elevated title and salary. Before Lipsius filed the class-action lawsuit against CWA Local 1034 and the NJDEP, union officials had even expressed support for his promotion.

However, once Lipsius stood up to the union brass, CWA officials wanted their revenge. After an independent classification reviewer agreed that Lipsius was entitled to the promotion and pay raise based on his duties, union officials switched their position and began actively opposing the promotion Lipsius had been found to deserve.

Union officials began attending meetings about Lipsius' promotion and eventually the CWA local interfered with the reclassification request, resulting in denial of the promotion despite what



Top CWA union boss, Carla Katz, personally intervened to punish a New Jersey State employee for opposing the union.

is usually a rubber-stamp process. In the four years before Lipsius' request was denied, over 400 such requests had been approved without a single one being turned down.

"The bosses of the CWA union want to make an example of Gary Lipsius to intimidate New Jersey public employees who refuse to toe the line," said Foundation President Mark Mix. "Union officials go to great lengths to bully rank-and-file workers. It's vital that the Foundation protect people like Gary every step of the way."

Union officials have a history of violating workers' constitutional rights

CWA officials were determined to seek retribution against Lipsius because, in 2004, he sought to protect his constitutional rights and the rights of thousands of other New Jersey public employees in a lawsuit also filed with help from the National Right to Work Foundation. The union hierarchy had been unlawfully compelling employees to pay compulsory union dues for politics without due process. In a settlement in that case, union officials were forced to recognize the rights of Lipsius and his coworkers who had dues illegally taken from their paychecks.

see **RETRIBUTION**, page 6

Foundation Action

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Bill and Carol Barrows : A Profile in Commitment

Longtime Foundation supporters make the gift of a lifetime

Bill and Carol Barrows have always been very special members of the Right to Work family. Their longtime support has served as an example of the impact that donors can have on the lives of many workers who've been abused by compulsory unionism.

Before retiring, Bill was Vice President of International Operations at Fusite Corporations, which had plants all over the world that manufactured electrical terminals for refrigeration and air conditioning systems. Carol has a background in nutrition, but moved on to open her own company, Drivers Unlimited, which offered driving and car relocation services to clients in New York State.

Now they enjoy their time together in their homes in Colorado and Florida. They love to travel, and since Bill got his pilot's license about 17 years ago, he has enjoyed flying with his wife to many of the different locations they have always dreamed of visiting.

The Barrows' passion for Right to Work

Bill became a Right to Work supporter in 1968, after witnessing several battles between his company and various union officials. While Fusite and their employees always won these fights, he became frustrated seeing the union bosses come back year after year – disrupting the business and crippling its ability to provide more good jobs. Bill knew that the amount of energy wasted struggling with local union bosses could have been used much more productively, to the benefit of both the company as a whole and its employees. Carol's experience being a business owner led her to similar conclusions.

Both recognize the devastating



Bill and Carol Barrows, dedicated Right to Work supporters and charter members of the Foundation's Legacy Society, have shown their commitment once again by establishing a Charitable Remainder Trust.

economic consequences inherent in a forced unionism system, and as freedom-loving individuals, both passionately want to stop the trampling of individual liberty that goes hand in hand with union compulsion. This desire led the Barrows to the Right to Work movement.

Their ongoing generous support of Right to Work has allowed the Barrows to play an active role in the struggle to bring freedom back to the workplace, and over the years they have truly done their part to further the movement. So it is no surprise that they have stepped up once again to become charter members of the new National Right to Work Foundation Legacy Society by making plans to support the Foundation through their estate planning.

Bill and Carol make planned giving work for them

In fact, the Barrows feel so strongly about Right to Work that they have chosen to leave the Foundation a sizable

amount through a charitable remainder unitrust (CRUT), one of many planned giving options available to Foundation donors (for information on charitable trusts, see the article on page 5).

In addition to helping ensure that Right to Work will have funds for the future of its strategic litigation program, the Barrows also considered the financial benefits of such a gift.

The Barrows' trust will provide them income for the rest of their lives, and allows them a substantial charitable income tax deduction right away (in fact, in their case the deduction exceeds the annual limit of 50% of their adjusted gross income, so the deduction will carry over for up to five years). Ultimately, however, their CRUT was created as a means to make a very generous gift to the Foundation and to support its work well into the future. At the end of their lives, one half of the remainder of the funds in their trust will be transferred to the Right to Work Foundation.

Smart tax planning pays off

"The great thing about the planned giving program is that it allows donors to make the gift of a lifetime — in a way that meets the donor's needs as well. There are so many different ways to give; once you find the method of giving that is right for you, you may be surprised at how much you can afford," said Carol. "Besides which, I have a great interest in not letting money go into paying excessive taxes, so why not give as much as you can and ensure that your estate doesn't wind up paying Uncle Sam?"

"We don't mind paying taxes," Bill added, "we definitely pay enough of

see **BARROWS**, page 6

Right to Work Helps Gallo Wine Employees in California

UFW union officials block counting of over 300 grape pickers' votes to oust unwanted union

SAN FRANCISCO, CA - National Right to Work Foundation attorneys are assisting a Gallo of Sonoma Wine employee in his appeal to the California State Supreme Court seeking the counting of ballots cast by over 300 Gallo workers in a three-year-old union election.

The grape pickers, led by Roberto Parra, were voting to decertify the unwanted United Farm Workers (UFW) union as their monopoly bargaining representative. Parra is now backed by Foundation attorneys in challenging UFW union officials' attempt to bypass the employees' right to throw out the unwelcome union.

UFW officials have successfully stonewalled a counting of the ballots by alleging unlawful interference by the employer in the run up to the election.

"Two wrongs don't make a right. UFW union officials should not be allowed to thwart employee free choice because of a few technical violations by their employer," said Foundation Vice President Stefan Gleason. "Many Gallo workers want no part of this union, but UFW officials won't take no for an answer and are abusing the process to maintain their privileged position."

UFW union officials suppress employees' free will

In 2003, Parra obtained the signatures of over 30 percent of his colleagues to petition for a decertification election. Under the California Agricultural Labor Relations Act (ALRA), if 30 percent or more of the employees in a bargaining unit sign a decertification petition, the California Agricultural Labor Relations Board (ALRB) will conduct a secret ballot election to determine if a majority of the employees wish to stop the union from any further monopoly representation.



UFW union militants are serial lawbreakers: In 2003, Foundation attorneys spurred their prosecution for ordering the mass firings of over 100 berry pickers.

After Parra collected the signatures, UFW union officials saw the handwriting on the wall and scrambled to intervene. In a desperate maneuver to cling to their forced union dues revenue stream, UFW union officials put a halt to a counting of the votes by filing unfair labor practice charges alleging unlawful employer interference.

While the ALRB held that minor employer violations could be grounds to throw out an election at the expense of the employees, this finding conflicts with federal labor statutes after which California law is modeled. Consequently, Parra sought the Foundation's help in filing an appeal in December with the state's highest court after the Court of Appeals for the Third Appellate District upheld the ALRB's decision in a perfunctory one-line ruling.

"Before the union took over, the company paid for our health care. Not any more," said Parra. "We realize that the UFW is violating our rights and we are pleading for our votes to be counted because they lie and they never live up to their promises."

Minor employer infractions should not negate employee choice

Foundation attorneys point out that the ALRA is modeled after the National Labor Relations Act, which prescribes that employer interference with an employee election must be substantial to justify that the result be set aside, and that less serious interference should not negate the exercise

of the employees' free will.

If the decertification election ballots are counted and a majority of the employees voted against the union, workers would be free to negotiate their own terms and conditions of employment and could be rewarded on their individual merit.

see GALLO WINE, page 8



UFW union bosses are circumventing Gallo grape pickers' ability to expel the unwanted union.

Charitable Trusts : A Flexible Giving Plan

Donors may structure tax savings, income, and remainder to suit individual needs

Charitable Trusts are a wonderful giving vehicle for those wishing to make a generous contribution but also wanting to meet other personal financial goals. Since they can be tailored to meet the needs of the individual donor, they are perhaps the most flexible tool available in the planned giving world. Below is a general description of the different types of charitable trusts available. *For more detailed information on how these trusts can be tailored to meet your needs, contact Elisa Sumanski toll-free at (800) 336-3600 or return the reply form included in the newsletter. As always, you are encouraged to speak to your own attorney or financial advisor about your specific situation.*

Charitable Lead Trusts

You don't necessarily need to choose between leaving a generous donation to your favorite charity and providing for your heirs. A Charitable Lead Trust (CLT) allows you to do both, while also avoiding most gift and estate taxes. You set up a trust fund that makes annual gift payments to the charities of your choice for a designated number of years. These payments can be a fixed amount (lead annuity trust) or a percentage of trust assets (lead unitrust). Then, at the end of a period of time that you designate, the assets used to fund the gift can be returned to you, or to your heirs if you wish. Using this tool, it's possible to pass along wealth to family members either partially or entirely free of estate and gift taxes.

Charitable Remainder Annuity Trust

This tool allows donors to turn assets into regular income, make generous

donations to their favorite charities, and receive substantial income tax deductions. Once a charitable remainder annuity trust (CRAT) is funded, the trust regularly distributes a fixed amount to the donor, thus providing the donor with income. The particular dollar amount and the frequency of the distributions (monthly, quarterly, annually) are determined when the trust is set up. The income beneficiary may also be someone other than the donor, and sometimes this vehicle is used to provide income for a loved one. CRATs allow donors to know exactly how much income they will receive with each payment, regardless of the performance of the trusts. At the end of the donor's life (or a designated number of years) the assets remaining in the trust are transferred to the charity or charities. The donor may be eligible for a substantial income tax deduction the year the trust is set up.

Additionally, CRATs are not subject to capital gains taxes, so donors frequently fund them with highly appreciated assets — such as stocks or real estate.

Charitable Remainder Unitrust

A charitable remainder unitrust (CRUT) is similar to a CRAT, and has almost identical tax benefits. The difference is that the income distributions are not a fixed amount. Instead, these distributions are based on a percentage of the value of the trust. Once you've set up and funded the CRUT, it will distribute a percentage of the trust's assets to you for life or a designated number of years. Afterwards, the assets remaining in the trust are distributed to the charities of your choice. The percentage used to determine the income payments, the frequency of income payments, and



even the person receiving those income payments (usually the donor, although the donor can use this vehicle to provide for a loved one) are determined at the time the CRUT is set up. There are four types of CRUTs that make this option even more flexible:

-A **Fixed Percentage Unitrust** or "straight unitrust" pays a percentage of the value of the trust's assets, revalued annually.

-A **Net Income Unitrust** pays the stated percentage or the net income of the trust, whichever is less. This is useful when the assets funding the trust won't immediately produce income.

-A **Net Income Plus Makeup Unitrust** is the same as the net income trust, except that those years when the payment is less than the stated percentage are "made up for" in years when net income earned by the trust exceeds that stated percentage.

-A **Flip Unitrust** starts out as a net income trust and "flips" to a fixed percentage trust when a "trigger event" occurs. The trigger event can be almost any event that is outside the donor's control — for example, a birth or death or reaching a certain age. On the other hand, an event like retirement is within the donor's control and thus could not be a trigger event. †

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Retribution

continued from page 2

Under the Foundation-won U.S. Supreme Court decision *Chicago Teachers Union v. Hudson*, before collecting any forced dues, union officials must first provide an audited disclosure of the union's finances to ensure that forced union dues seized from objecting nonunion public employees do not fund union activities unrelated to collective bargaining.

Later, Lipsius filed related unfair practice charges against the union with the New Jersey Public Employment Relations Commission (PERC) for unlawfully charging him as a nonmember for political and other non-collective bargaining activities. †

Newsclips Requested

The Foundation asks supporters to keep their scissors sharp for clipping news items exposing the role union officials play in disruptive strikes, outrageous lobbying, and political campaigning. Please clip any stories that appear in your local paper and mail them to:

NRTWLDF
Attention: Newsclip Appeal
8001 Braddock Road
Springfield, VA 22160

Barrows

continued from page 3

them. But it is much more fun to give it to you guys than to give it to the government!"

The Barrows focus the majority of their giving on three organizations; the Environmental Learning Center and Harbor Branch Oceanographic Institution are their other two favorites. Their interest in oceanographic and environmental research goes hand in hand with a shared love of boating. Focusing their giving allows Bill and Carol to make a bigger difference to their chosen charities, and develop personal relationships with the people running them.

"These are the favorites for us. We've gotten to know all the folks at each of these places, and it's much more fun that way," Bill acknowledged.

When asked if there was anything else they wanted to share with other Right to Work supporters, Bill finished by saying, "We are at a historically important point in the Right to Work movement, and so Carol and I want to encourage other donors to find ways to support the Foundation's work. We personally challenge them to consider a bequest or charitable gift annuity, or to set up a trust like we did. Or to at least consider making their next gift to the Foundation the largest one yet. Like Carol was saying earlier, make the gift of a lifetime."

Legacy Society recognizes planned givers

Bill and Carol, as charter members of the National Right to Work Foundation Legacy Society, are currently joined by over 50 other supporters that have already informed the Foundation of bequests and other planned gifts. The number continues to grow; everyone

For more information on planned giving, please contact Elisa Sumanski at (800) 336-3600, or email plannedgiving@nrtw.org.

who enrolls in the Legacy Society this first year will be given the distinction of being a "charter member." Members are entitled to exclusive updates on Foundation happenings, invitations to special Right to Work events, and a growing number of special privileges.

"The Right to Work Foundation and all of its staff are deeply thankful for all the Barrows and other members of the Legacy Society are doing to ensure that the battle will go forward," said Foundation president Mark Mix. "It's especially touching when donors think so much of our work that they include the Foundation in their estate plans. Bill and Carol are special folks, as are all those who have committed to the financial security of the Foundation's work." †



Foundation Vice President Stefan Gleason appeared nationally on Fox News Channel in January to reveal some of the far-out political causes that NEA union officials support with tens of millions of dollars in teachers' forced dues.

Racketeering suit opens new front against coercive organizing

continued from cover

unionization. Often employees report having been browbeaten at home and at work by union agents until they signed the cards. Moreover, aside from frequent misrepresentations by union organizers regarding the purpose of these “authorization cards,” many employees have found that it was nearly impossible to revoke their previously signed cards.

Workers sue union and company under federal racketeering law

The Foundation-assisted lawsuit, filed in the U.S. District Court for the Western District of North Carolina under the Racketeer Influenced and Corrupt Organizations Act (RICO), alleges a pattern of violations of long-standing federal law that bars employers from delivering “things of value” to unions. The class-action racketeering suit lists four counts of RICO violations regarding the enforcement of these corrupt arrangements against the employees at certain Freightliner facilities.

While the RICO statutes are better known for being used to prosecute gangs and organized crime, more recently Foundation attorneys assisted workers in Arizona in filing a RICO lawsuit to stop repeated corruption by union officials.

Workers announce suit on UAW’s doorstep

In a symbolic gesture to show that the workers would no longer be intimidated by the notoriously violent UAW union, the employees announced their racketeering lawsuit outside the union’s national headquarters in economically devastated Detroit, Michigan—the hub



North and South Carolina television stations ran several news stories about the workers’ suit against UAW union bosses’ illegal deal with Freightliner.

of compulsory unionism in the American auto industry. Plaintiffs Timothy Cochrane and Katherine Ivey, who both work at Freightliner’s Gastonia facility, joined Foundation Vice President Stefan Gleason and staff attorney Bill Messenger to brief members of the media.

Before satellite cameras, Cochrane summed up the lawsuit in a statement he gave to the press: “There is something very wrong about a union that betrays the workers it is supposed to represent. UAW officials made a secret deal with our employer to get the power to represent us after we already said no to the UAW. They then used that power to give away our wage increases and benefits.”

The employees seek financial restitution for all affected employees at the Mount Holly, Gastonia, and Cleveland, North Carolina facilities in the form of treble damages for all dues seized and earnings lost as a result of the unlawful pact. The Freightliner-UAW secret deal also sold out the workers’ rights at Freightliner plants in High Point, North Carolina and Gaffney, South Carolina. Foundation attorneys have given free legal assistance to employees at both facilities to fight against the UAW’s corrupt backroom dealings.

“UAW officials sold out the very workers they sought to represent in order

to have the company’s help in coercing thousands of workers into union ranks and obtaining upwards of \$1 million in annual dues revenues,” said National Right to Work Foundation Vice President Stefan Gleason.


“It takes tremendous courage for workers to stand up to pressure from both their employer and the union brass, and the

National Right to Work Foundation is proud to stand with them.”

Worker faces retaliation for questioning union privileges

Less than a week after the suit’s filing, there was another reminder of the type of intimidation workers face every day under these sweetheart deals. Foundation attorneys helped RICO plaintiff Kristi Jones file separate NLRB charges against the UAW and Freightliner for retaliating against her for refusing to toe the line.

Jones had been suspended, demoted, and stripped of her leadership position simply because she questioned whether union shop stewards, who had already been receiving preferential treatment from Freightliner management, would be subject to a new work rule that applied to other workers.

“I would like my team leader status reinstated, and I want the company and the union to know they can’t push us around,” Jones told her local newspaper. The NLRB will now investigate Jones’ charges and decide whether to issue a formal complaint and prosecute the company and union for additional unfair labor practices. 

Gallo wine

continued from page 4

UFW notorious for violating workers' rights

These events are only the latest in a line of ham-fisted tactics employed by UFW union bosses to stifle workers' dissent. In December 2003, Foundation attorneys persuaded the general counsel of California's ALRB to issue a complaint against the UFW union for unlawfully ordering and causing the mass firings of more than 100 Oxnard Coastal Berry employees in 2001.

In May 2000, by order of an ALRB packed with three one-day appointments by Governor Gray Davis, UFW union officials were granted monopoly bargaining power over the employees of a large number of California firms—even though most of the employees did not support the union. Demands that employees join the union and pay dues shortly followed. Foundation attorneys were able to win a \$105,000 settlement against the UFW union in July of 2004 on behalf of the disenfranchised Coastal Berry employees. ¹

Free Newsletter

If you know others who would appreciate receiving **Foundation Action**, please provide us with their names and addresses. They'll begin receiving issues within weeks.



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

Union bosses have rarely shied away from trampling workers' rights, but our cover story in this issue shows just how far they are willing to go to corral workers into dues-paying union ranks.

Employees at the Freightliner plant in Gastonia, North Carolina, like so many other workers across the country, voted in a secret ballot not to have the United Auto Workers (UAW) union represent them. But the UAW's chiefs in Detroit refused to accept the outcome.

So the UAW's top brass began to negotiate with the company to find out what it would take to get the company's help in recruiting union members. What could the union offer the company?

A secret agreement uncovered by Foundation attorneys revealed that UAW officials agreed to sell out the workers at the bargaining table if the company aided their organizing efforts.

That *quid pro quo* deal involved promises to slow wage increases and to cut other employee benefits—negotiated despite the fact that the union had not gained the support of the employees. The employees have now filed a racketeering suit with the Foundation's help.

But the intimidation continues. After the UAW had been installed at several plants, one worker asked the simple question of whether a new work rule would also apply to union shop stewards—who had already been getting special treatment. That earned her a suspension and a demotion.

I am proud to have Foundation attorneys aiding these courageous workers, and you as a Foundation supporter should also be proud. No other organization has the talent and commitment to help these heroic workers fight for their rights in the face of such unseemly collusion.

Thanks again for making our work possible.

Respectfully,

Mark Mix