



Foundation Action

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

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Major Challenge to “Top-Down” Organizing Pact Filed

***Company and union face
civil suit for quid
pro quo sweetheart deal***

AKRON, Ohio — National Right to Work Legal Defense Foundation attorneys filed an unprecedented federal court challenge to defend independent workers who are the target of a forced unionization campaign launched by Heartland Industrial Partners LLP, the United Steelworkers of America union, and a major automotive parts supplier.

The first of its kind, the lawsuit seeks to overturn an illegal sweetheart arrangement that requires all companies acquired by the Heartland investment firm to impose unionization on their unsuspecting employees.

The suit calls into question the legality of a rapidly emerging organizing trend—especially prevalent in the automobile, health care, and hotel industries—in which, union organizers more often than not, are rejected by workers and have abandoned grassroots organizing drives. Instead, union organizers bully companies into agreeing to help impose compulsory unionism on their own employees through highly coercive “top-down” organizing methods.

“This backroom deal between Heartland and the Steelworkers union is



AP/Wide World Photo

Steel workers union boss Leo Gerard (right) is implementing a scheme to impose forced unionism on thousands of independent workers with top-down organizing.

nothing more than a cynical scheme designed to enrich and enlarge the power of union officials at the expense of employees,” said Mark Mix, President of the National Right to Work Foundation. “Since workers increasingly reject union affiliation when actually given a choice, union officials are resorting to these new coercive tactics to stem their hemorrhaging membership numbers and slumping compulsory dues revenues.”

It is believed that the *quid pro quo* arrangement between the Steelworkers union and Heartland violates civil and criminal provisions of the Taft-Hartley Act enacted by Congress in 1947 to prevent corruption, conflicts of interest, and sweetheart deals between company and union officials that compromise the interests of rank-and-file employees. As the civil suit proceeds, it is conceivable that federal officials from the Department of Justice could ultimately file criminal charges against Heartland and the union.

The U.S. District Court suit, filed on behalf of Wanda Patterson and several of her coworkers at Collins & Aikman

Corporation, an Ohio-based automotive parts manufacturer recently acquired by Heartland, is already attracting significant publicity—in part because a primary architect of the agreement, David Stockman, formerly served as Director of the White House’s Office of Management and Budget during the Reagan Administration.

Union operatives target employers to expand forced unionization

In 2001, Heartland bought out Collins and Aikman and forced the company to accept a so-called “neutral-

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Task force targets new coercive organizing tactics

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ity agreement” with the Steelworkers union. Employees at the Holmesville, Ohio, Collins & Aikman facility, who had previously voted on several occasions to reject union representation, were subjected to intense pressure to unionize from both the employer and the union under the agreement.

Under the pact at issue in the lawsuit, Heartland forces acquired companies to operate under a predetermined framework for union bargaining that includes, among other things, a so-called “neutrality agreement.” Acquired companies must actively assist union officials in corraling employees into union ranks by denying employees an opportunity to vote in a traditional secret ballot election, and giving union organizers employees’ private information such as home addresses so that the organizers may conduct “home visits” to pressure workers into signing union authorization cards. The pact requires that employees pay union dues as a condition of employment.

In return, union officials poured pension fund assets (collected from unsuspecting workers) into Heartland, promised to stifle certain employee rights under federal law, and limit employees’

ability to influence their own wages, benefits, and working conditions.

“These cynical pacts amount to nothing more than an alliance between union bosses and weak-kneed employers to threaten and intimidate workers into union ranks,” said Mix.

Union Sweetheart deal also mandates illegal boycotts

Meanwhile, Foundation attorneys filed related unfair labor practice charges for another worker, Linda Kandel, at the National Labor Relations Board (NLRB). Kandel is challenging a provision mandating that Heartland-acquired companies not only help Steelworkers officials unionize their own employees but also impose the same requirement on all affiliates or companies with which they conduct a certain level of business.

Although the Heartland situation is a new twist, the notion of one employer interfering so blatantly in the organizing of another employer’s employees has long been considered an illegal “hot cargo” agreement, a type of secondary boycott. As such, Foundation

attorneys are asking the NLRB’s General Counsel to issue a complaint in response to Collins and Aikman employee Linda Kandel’s charges and prosecute this violation of the National Labor Relations Act.

“Heartland and the Steelworkers union are using their sweetheart deal to spread compulsory unionism like a virus infecting as many companies and employees as possible,” stated Mix.

Foundation triples assistance fighting coercive organizing campaigns

Unfortunately, the Heartland case is merely the tip of the iceberg. A wave of “top-down organizing” campaigns has been sweeping across the nation.

Increasingly facing humiliating defeats in traditional grass-roots driven organizing drives, union bosses have turned to “top-down” organizing to bolster their ranks and preserve their forced-dues power. Left unchallenged, such campaigns have the potential to lock millions of additional workers into forced unionism contracts, undermine Right to Work laws, drive jobs overseas, and send America’s already struggling economy veering into a ditch.

As a result, the Foundation announced over Labor Day that it will triple the resources spent on defending employees against these emerging methods of joint employer/union coercion of employees in the decision of whether to unionize.

“Responding to an overwhelming number of pleas for help from rank-and-file employees facing these abusive union organizing tactics, the Foundation must immediately triple funding for its Top-Down Organizing Task Force,” Mix declared. “Foundation attorneys are dedicated to combating these coercive agreements wherever they arise.”

Foundation Action

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 www.nrtw.org • 1-800-336-3600

The Foundation is a nonprofit, charitable organization providing free legal aid to employees whose human or civil rights have been violated by abuses of compulsory unionism. All contributions to the Foundation are tax deductible under Section 501(c)(3) of the Internal Revenue Code.

AFL-CIO Cancels TV Debate with National Right to Work

Union umbrella strong-arms CNN to avoid appearance with Foundation spokesman

SPRINGFIELD, Va. — In a revealing move, the AFL-CIO flatly rejected Cable News Network's (CNN) request that they appear for a Labor Day weekend television discussion about the union movement with a spokesman from the National Right to Work Foundation.

Foundation Vice President Stefan Gleason was booked to appear on the national cable network to debate representatives from the AFL-CIO. They were supposed to debate the relevance of today's union movement and issues such as whether union officials truly represent the interests of rank-and-file workers.

Rather than debate, however, union operatives ultimately pressured the network to cancel the National Right to Work Foundation in favor of an opponent from a business group, which would allow the AFL-CIO to frame the debate in the preferable stance of "busi-

ness versus workers." In facing off against a spokesman from National Right to Work, the discussion invariably turns into "union versus workers."

Big Labor cannot defend compulsory unionism

The episode underscores the ongoing threat that National Right to Work's freedom agenda presents to Big Labor's compulsory unionism empire. The AFL-CIO went so far as to tell a CNN producer that their spokesmen "...absolutely will not even appear on any single solitary program even like (sic) within the same hour as somebody from the National Right to Work."

In actuality, the refusal follows an AFL-CIO strategy pursued for decades. Although Foundation spokesmen appear on national and local television on a



Foundation Vice President Stefan Gleason conducts a national TV interview regarding union corruption and the need for strengthening of union financial reporting requirements.

regular basis, union officials are reluctant to appear on these same programs to avoid defending the indefensible practice of compulsory unionism. ⚡

Spotlight on...

William Messenger
Staff Attorney



Having witnessed first hand the economic ruin brought by union bosses upon the steel industry in his hometown of Youngstown, Ohio, staff attorney William Messenger has dedicated the early years of his promising legal career to fighting compulsory unionism.

Serving on the National Right to Work Foundation's legal staff since 2001, Messenger is on the cutting edge of the battle to protect workers from a variety of insidious new "top-down organizing" methods.

In one of his higher profile cases so far, Messenger fought a union power grab involving last year's \$2-billion-a-day shutdown of the West Coast ports, as Longshoremen Union bosses attempted to eliminate the jobs of

non-union workers to consolidate union control over every aspect of the stevedoring industry. As a result of his efforts, more than 30 independent employees of a major stevedoring company have been able to keep their jobs and remain union-free.

More recently, Messenger brought a first-of-its-kind case that challenges union efforts to enlist auto industry suppliers to actively assist union organizers in corralling unsuspecting employees into union membership (see article, page 1).

Before joining the Foundation, Messenger received a bachelor's degree in business administration from Ohio University, as well as a law degree from the George Washington University School of Law.

Tax Benefits of Charitable Gifts Increasingly Advantageous

Gifts to Foundation generate tax savings and, in some cases, lifetime income stream

SPRINGFIELD, Va. — The National Right to Work Foundation has embarked on a major initiative to inform Right to Work supporters how they can advance the cause of individual liberty while creating excellent tax benefits for themselves.

Assets accumulated during one's lifetime usually go to one or more of three places: family, charity, or taxes. Fortunately, effective gift planning can ensure that family and charity receive most of those assets and not the tax collector.

"My vision for advancing the Right to Work principle is long-term. It is important that our friends also think long-term about their financial support. Planned giving can help them accomplish this," stated National Right to Work Foundation President Mark Mix.

Tremendous opportunities lie ahead to advance the Right to Work cause and to roll back union special privileges. By making a planned gift to the Foundation now, Foundation supporters can keep the momentum going and supporters can take advantage of the tremendous tax and income benefits.

The Foundation is making available several planned giving tools which can lower a contributor's tax liability, generate immediate tax deductions, avoid capital gains, bypass estate taxes, and even generate income for themselves or a loved one. By taking a moment now to consider carefully what to give, when to give, and how to give, supporters can help ensure maximum impact of their charitable giving.

The Foundation's planned giving professionals have partnered with planned giving advisors at Comerica Charitable Services, an affiliate of Comerica Bank. This team of professionals can help ensure that a supporter's plans are established as seamlessly as possible.

Of course, supporters are always encouraged to consult with their own advisors if they have any questions about the effect of a particular planned giving option on their personal tax situation. The information in this newsletter is, of necessity, general in nature.

Chairman's Partnership Fund for the Future

The Board of Trustees for the National Right to Work Foundation established an endowment fund—the *Chairman's Partnership Fund for the Future*—to ensure our ability to continue legal assistance to working Americans who suffer compulsory unionism injustices. Such an endowment permits the Foundation to make the commitments necessary to ensure employees that their legal cases can be seen through to a successful conclusion. An additional gift to this Fund will stand as a living testament to your commitment to freedom in the future.

If you would like to learn more about planned giving opportunities

please call Alicia Auerswald, Vice President,
(800) 336-3600, ext. 3304, or e-mail at
aaa@nrtw.org.

Excellent Planned Giving Vehicles Available to Supporters

Appreciated Stocks, Bonds, Mutual Funds and Other Investments

Many securities owned by supporters may be worth much more today than what they originally paid for them. By giving stock and other appreciated securities owned for more than one year, you can increase your tax savings tremendously. You receive an immediate income tax deduction for the *current fair market value* of the asset—no matter how much you originally paid for it!

Not only are you increasing the amount you can give to the important work of the Foundation; you are also receiving a sizeable tax deduction and avoiding costly capital gains taxes at the same time.

Wills and Living Trusts

Giving to the Foundation through a will is the most popular way to make a long-range gift. However, a gift from your estate can only be made if you plan ahead. In addition to a will, a revocable living trust allows you to retain control of your assets during your lifetime and can help facilitate the management and distribution of property. Such arrangements may provide significant probate expense savings and speed the process of estate settlement.

Charitable Gift Annuities

You simply make a gift of cash or appreciated securities to the Foundation and receive fixed payments for life. The frequency and rate of payments are determined at the time the gift annuity is funded. Current rates are as high as 11.3%, depending on your age. You enjoy income and tax benefits today for a gift that you might otherwise have planned to make in the future. However, annuities are not available in all states. Please call to see if this great planned giving option is available to you.

Life Insurance Policies

Many people don't realize that life insurance policies, or dividends paid on the policies, make practical gifts. You can give a fully paid-up policy to the Foundation and, depending on whether we plan to hold the policy or cash it in, deduct its

replacement cost or cash-surrender value. You can also give policy dividends by notifying the insurance company and deducting the amount of dividends each year on your taxes.

Retirement Plans

Funds withdrawn from an IRA during life are subject to income tax. If the funds are donated to the Foundation, however, there is an offsetting charitable income tax deduction—in other words, you pay less in taxes. Careful planning can minimize the taxes due on retirement plan assets during life and at death.

Appreciated Real Estate

If you own a property (i.e. house, farm, land) that is fully paid off and has appreciated in value, an outright gift to the Foundation may be the simplest solution. You can deduct the fair market value of your gift, avoid all capital gains taxes, and remove that asset from your taxable estate.

Charitable Remainder Trusts

Creating a trust saves estate taxes and probate costs, as well as substantial income taxes. You simply transfer assets into an irrevocable charitable remainder trust. You receive a federal income tax deduction in the year you establish the trust. Then, income from the trust is paid to you, or someone you select, for a limited number of years or for a lifetime. Your National Right to Work Foundation uses the remainder of your gift to continue employees' legal battles for freedom.

Charitable Lead Trust

Using a planned gift to help the Foundation today, while providing for yourself or a loved one in the future is easy with a Charitable Lead Trust. These trusts are frequently referred to as "the gift that can come back to you." The Foundation receives your gift in the form of annual payments from the trust over a set number of years. Then, at the end of this time period, the assets used to fund the gift can be returned to you.

NLRB To Challenge Annual Dues Objection Requirement

General Counsel's office timid in protecting employees' Beck rights

WASHINGTON, DC — After years of legal arguments and pressure brought by National Right to Work Legal Defense Foundation attorneys, the National Labor Relations Board (NLRB) General Counsel's office has finally agreed to challenge a common union tactic of forcing employees to object every single year if they do not want union officials to spend their compulsory union dues for political activities.

The union requirement that employees object year after year—rather than once—has dramatically hampered the effect of a sweeping Foundation-won U.S. Supreme Court decision establishing that employees cannot be compelled to pay union dues for political and other non-collective bargaining activities.

“Union officials use these annual objection schemes to demoralize employees so that their forced-dues money continues to flow into union political coffers,” said Ray LaJeunesse, vice president and legal director of the Foundation. “Though encouraging, the NLRB General Counsel's decision finally to prosecute this tactic is merely a small step towards full enforcement of employees' right to withhold union dues spent for partisan politics.”

Union bosses harassed former local president

The first-ever complaint issued by the General Counsel's office on this issue came years after two federal courts ruled that such a requirement is illegal. The complaint (which awaits adjudication before an administrative law judge) arises out of unfair labor practice charges filed at the NLRB by Foundation attorneys on behalf of Patrick Quick and four other employees. A former president of Graphic Communication International (GCI) Union Local 735-S, Quick lives in



Union lawyers put Patrick Quick through a legal wringer for quitting the union.

his formal union membership and to pay only a reduced fee to cover the union's collective bargaining costs, rights affirmed by the U.S. Supreme Court's ruling in *Patternmakers v. NLRB* and *Communications Workers v. Beck*. But the union—like virtually all private sector unions—maintains a policy that employees must annually renew their objections if they desire a reduction in their forced union dues so that they are only subsidizing collective bargaining activity, rather than politics and other union activism.

Legal observers recognize that NLRB General Counsel Arthur Rosenfeld has acted remarkably timid when asked to defend individual employee rights and has failed to issue dozens of complaints that would bring Clinton-era NLRB policies back in line with rulings of various U.S. Courts of Appeals. Nevertheless, the federal court precedent on the annual objection requirement was so persuasive that Rosenfeld may have felt he had no choice but to issue a complaint.

For example, the United States Court of Appeals for the Fifth Circuit ruled in *Shea v. IAM* (1998) that the International Auto Machinist (IAM) union's annual objection requirement was illegal. In that

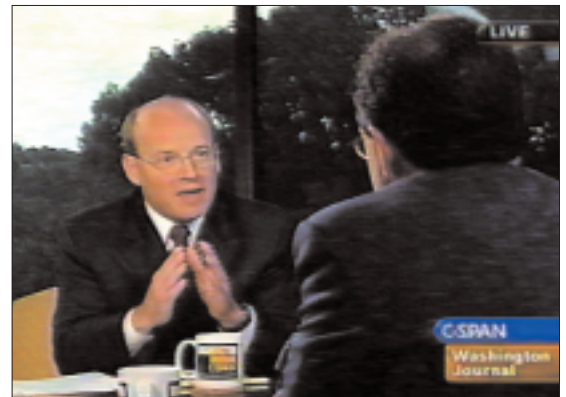
Hazleton, Pennsylvania, and retired recently.

When the local union hierarchy became increasingly abusive in the late 1990s, Quick notified Local 735-S officials of his desire to resign

Foundation-won case, the court stated that the annual objection requirement is “designed . . . only to further the illegitimate interest of the IAM in collecting full dues from nonmembers who would not willingly pay” the portion used for politics. Despite the court's ruling, union officials continued to impose the annual objection requirement on railroad and airline employees outside the Fifth Circuit forcing Foundation attorneys to file a nationwide class-action lawsuit.

The class-action suit, led by Anthony Lutz and five other United Airlines passenger service employees against the IAM union, resulted in another ruling slamming down the union policy, releasing approximately 1,039 employees nationwide from the union's annual objection requirement and returning forced dues already seized.

“IAM union bosses thumbed their noses at the law by continuing to prevent employees from exercising their constitutional right to refrain from funding Big Labor's political machine,” stated LaJeunesse. “The NLRB's similar reluctance to follow the courts' lead demonstrates why Foundation attorneys must keep up the pressure to ensure these worker protections are vigorously enforced.”



Foundation president Mark Mix appeared in a nationwide television debate with union hack Johnathan Tasani of the AFL-CIO frontgroup calling itself American Rights at Work.

Foundation Beats Stealth Assault On OK's Right to Work

Though legal challenges are still pending, state enjoys freedom and prosperity

TULSA, Okla. — In a victory for workers across Oklahoma, Judge David Peterson of the Oklahoma State District Court for Tulsa County upheld Oklahoma's Right to Work law, rejecting a union legal attack sneakily filed in mid-May.

Initially flying below the radar, the union suit, *Eastern Oklahoma Building and Construction Trades Council v. Ralph Pitts*, sought to strike down the Right to Work constitutional amendment on the bizarre theory that it somehow violates the same Oklahoma constitution.

Circumstances suggest that the suit was a "collusive suit" intended by both parties (union and employer) to quietly void the state's Right to Work law without arguments presented by a party that sincerely supports the law. After the Foundation's legal team discovered the suit and filed to intervene for an Oklahoma worker, the Foundation launched a public relations offensive that resulted in a spate of news articles and wire stories. Under the hot glare of media exposure, the union's lawyer later admitted publicly

that the suit was, in fact, a "friendly suit," meaning that both parties wanted the law struck down.

"It's an outrage that union bosses are so hell-bent on destroying the freedom and prosperity the new Right to Work

law is bringing to the people of Oklahoma," said Stefan Gleason, vice president of the Foundation.

Tulsa worker allowed to counter Big Labor legal assault

Stephen Weese, an employee of the Oklahoma Fixture Company in Tulsa, filed court papers with help from Foundation attorneys, seeking successfully to be admitted to the case as a "defendant intervenor." This allowed Foundation attorneys to file briefs and make oral arguments defending the direct financial and liberty interests at stake for Oklahoma workers in the preservation of the Right to Work amendment.

Meanwhile, Judge Peterson denied motions filed by the union lawyers and granted Weese's motion for summary judgment, thereby upholding the Right to Work amendment (a ruling which the union's lawyers appealed on September 16.)

Foundation pressures state attorney general to act

Meanwhile, Oklahoma Attorney General Drew Edmondson refused to defend the Right to Work amendment, declining to intervene to defend the Oklahoma Constitution in the *Pitts* case. Although public pressure generated by

the Foundation ultimately compelled him to file papers in the case, he took an unhelpfully neutral position. Rather than oppose the union's arguments outright, Edmondson merely argued that proceedings in the Tulsa case should be delayed until the State Supreme Court resolves another pending legal challenge to Oklahoma's Right to Work provision.

Questions still loom as to whether the attorney general stayed out of the collusive lawsuit for political reasons and whether he was an active participant in the union's initial effort to conceal the suit's existence. At best, however, his actions demonstrate that defending the will of a majority of Oklahoma voters who passed the law by referendum was clearly not his priority.

"[W]e were surprised and disappointed to learn that you, as the constitutionally mandated defender of Oklahoma law, have inexplicably decided to sit on the sidelines rather than defend the will of the citizens of Oklahoma," stated Foundation President Mark Mix in a chastising public letter to the attorney general.

Second Right to Work ruling awaits hearing at OK Supreme Court

Foundation attorneys learned of the *Pitts* challenge to the Right to Work amendment from a legal brief

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The Foundation's media relations team exposed Oklahoma's Democrat attorney general, Drew Edmondson, after he hung the state's Right to Work law out to dry.

Oklahoma

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filed in late spring by union lawyers in a prior challenge to the amendment that is still pending in the Oklahoma Supreme Court.

In that case, the U.S. Court of Appeals for the Tenth Circuit—based in Denver—ruled that certain provisions of the Right to Work law are preempted by federal law, but deferred to the Oklahoma State Supreme Court on whether the core of the law is “severable” from the preempted sections and whether it will ultimately be allowed to stand.

“This legal mischief is a last ditch effort by union bosses to defy the will of Oklahoma’s voters, who decisively rejected Big Labor’s self-serving propaganda and scare tactics when they originally established a statewide policy of voluntary unionism,” said Gleason.

Oklahoma economy reaps benefits of Right to Work

On September 25, 2001, Oklahoma became the country’s 22nd Right to Work state when voters enacted State Question 695.

According to the Bureau of Labor Statistics of the U.S. Department of Labor, Oklahoma has led the nation in the creation of jobs since the passage of Right to Work—despite a sluggish American economy. The economic growth seen in Oklahoma is part of a broader trend that shows Right to Work states having higher rates of economic growth in comparison to states with pervasive forced unionism.

“Oklahoma citizens are already reaping the economic benefits of the state’s Right to Work law, to say nothing of the additional protection of individual rights that it provides,” said Gleason. “However, Big Labor can be counted on to pull out all the stops to protect the interests of a self-serving and unaccountable union hierarchy.” ✚



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

The workers don’t want the union... so Big Labor is forcing employers to do their dirty work.

This outrageous scenario is happening right now all across America, and you and I must take decisive action to fight it.

The union bosses have gone on the attack with a cunning “Top-Down Organizing” strategy that could bring them immense new power.

Militant unions like the United Auto Workers (UAW), Steelworkers, Hotel Employees, and Teamsters use sophisticated corporate campaigns to “organize employers” and force them to turn their workers over to union bosses without a fight.

America’s workers recognize the destructive and self-serving behavior of union officials, as well as their documented role in union violence, corruption, and job loss caused by featherbedding and other uneconomic work rules. That’s why they increasingly reject union organizing drives when actually given a choice in the matter.

Workers want freedom—the Right to Work free of compulsory unionism.

They don’t want their forced-dues dollars funneled into Big Labor’s campaign war chest and used to support far-left political candidates who can be counted on to support union boss demands across the board.

The union bosses’ strategy is simple—to effectively take away employees’ freedom to choose.

That’s why the Foundation has formed a “Top-Down Organizing Task Force” to inform workers that they can resist the unions’ diabolical new tactic. You can read more about it in this issue’s front page article.

This war will not be won or lost in a single case. We must persevere in defense of liberty as long as the union bosses use their government-granted privileges to crush worker freedom, drive the economy into a ditch, and impose their radical, far-left agenda on every American.

In waging that struggle, your continued support is vital to our success.

Sincerely,

Mark Mix
Mark Mix