

Farm Workers Vote to Remove Unwanted Union Finally Upheld

Union boss scheme to ensnare workers for additional 7 years fails

PHILADELPHIA, PA – With free legal assistance from National Right to Work Foundation staff attorneys, workers at Kaolin Mushroom Farms have won a legal victory upholding their vote to remove the Kaolin Workers Union (KWU). The Pennsylvania Commonwealth Court unanimously ratified the results of a March 2015 union decertification election that evicted the KWU.

In September 2014, Kaolin Farms employee Roberto Morales filed a decertification petition indicating that he and his coworkers were dissatisfied with the union officials monopoly power and wished to hold a vote to remove the KWU. A Pennsylvania Labor Relations Board (PLRB) Secretary initially dismissed the petition on the grounds that the union's presence could not be challenged for a seven-year period after its contract with the employer was adopted. According to the Secretary, this "contract bar" would remain in force until October 2, 2016, the earliest date an election could be held under that bar.

Foundation staff attorneys helped Morales file an objection to this decision with the full PLRB, arguing that unwilling employees shouldn't be kept in union ranks for such a lengthy period, and that there is no basis in Pennsylvania law for the seven-year contract bar. The PLRB overruled the Secretary, and a secret ballot election was held in March 2015, which resulted in Kaolin Farms employees rejecting the union by a decisive margin.

Union officials claim power to block vote for 7 years


Instead of accepting the employees' verdict, union lawyers filed objections to the election outcome, once again arguing that a vote could not be held until after the seven-year contract had expired. Fortunately for Morales and his coworkers, the Pennsylvania Commonwealth Court agreed unanimously with Morales' Foundation staff attorney that the employees could not be denied a vote to oust the union for such



Union bosses attempted unsuccessfully to block workers from voting to remove the unwanted union.

an unusually long time. Instead the court ruled that after three years, the contract no longer could block a decertification vote by employees seeking to remove an unwanted union.

"Thanks to the efforts of Roberto Morales and Foundation staff attorneys, Kaolin Farms employees have finally evicted one very stubborn union," said Patrick Semmens, vice president of the National Right to Work Foundation. "Unfortunately, Morales and his coworkers had to endure a lengthy legal process before their vote was upheld.

"Pennsylvania needs to adopt a Right to Work law, which would ensure that no employee is forced to pay tribute to an unwanted union just to keep a job. Such a law would prevent employees stuck with an unpopular union from being forced to pay dues to the very organization they are seeking to remove." 

Connect with us today!



Foundation Action

Rev. Fred Fowler
Patrick Semmens
Ray LaJeunesse, Jr.
Mark Mix

Chairman, Board of Trustees
Vice President and Editor-in-Chief
Vice President and Legal Director
President

Distributed by the
National Right to Work Legal Defense Foundation, Inc.
8001 Braddock Road, Springfield, Virginia 22160
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.

Ohio Union Bosses Forced to Back Down from Unlawful Dues Demands

UFCW officials illegally told employees full membership and dues were required

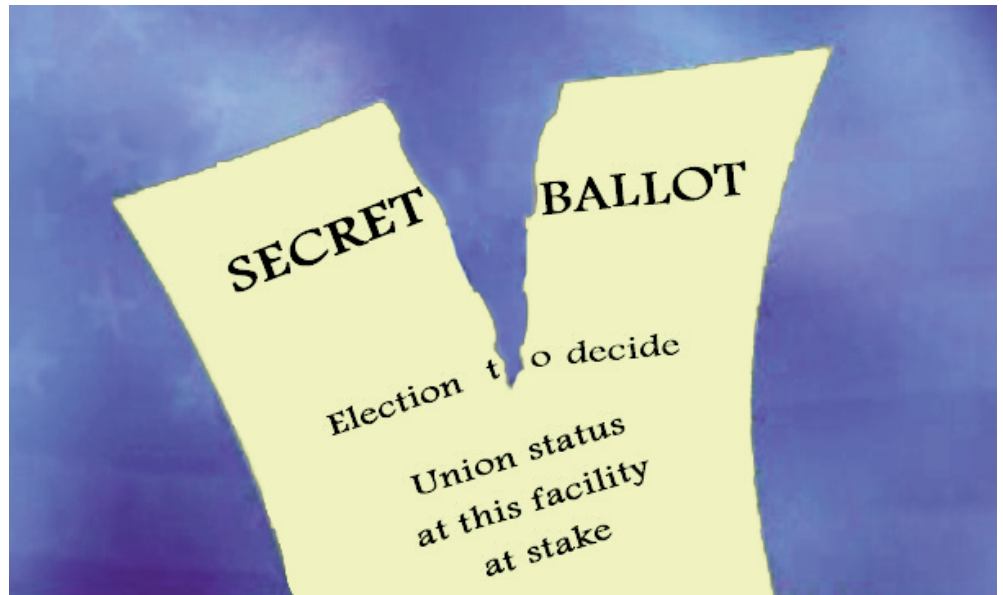
CINCINNATI, OH - In the latest series of Right to Work Foundation victories, employees of a CVS Pharmacy in Ohio have won a federal settlement from union officials at Local 1059 of the United Food and Commercial Workers Union. The settlement comes after charges were filed with the National Labor Relations Board (NLRB) blowing the whistle on illegal strong arm tactics utilized by the union bosses to force the workers to join and pay union dues in violation of the employees' rights.

Eric Todd, a worker in the Bexley, Ohio CVS store was employed at that location before CVS signed a monopoly bargaining agreement with the union officials of UFCW Local 1059. To Todd's surprise, a Card Check organizing drive installed the union without even the protections of an NLRB-supervised secret ballot election. Upon the institution of this agreement, union agents informed Todd and other employees that they had to join the union and pay full dues in order to work at the store.

Union boss to worker: Join or be fired

Union officials illegally hid from employees their rights to refrain from formal union membership and from paying for union political spending and other union expenditures unrelated to the union's workplace monopoly bargaining powers, as established in the Foundation-won *Communication Workers v. Beck* decision.

Despite the efforts of Local 1059 officials, Todd and several other workers eventually independently learned of and sent letters asserting their rights as recognized by the Supreme Court's *Beck* decision. However, union officials chose to completely ignore the letters.



After bypassing the protections of a secret ballot vote and gaining power through a Card Check drive, UFCW bosses went on to illegally demand full dues from workers.

Soon after, a union boss came into the store and threatened the workers with termination if they did not join the union and pay dues.

Fortunately, Todd contacted the National Right to Work Foundation for free legal assistance, and Foundation staff attorneys assisted him in filing charges with the NLRB Region 9 office in Cincinnati, Ohio.

Local Union officials misled workers before

This is not the first time that workers have turned to the National Right to Work Foundation because UFCW Local 1059 union officials were violating the law. In November 2012, Westerville CVS employee Randall Thompson also had his rights infringed by the union brass of Local 1059. Foundation attorneys assisted Thompson and Local 1059 officials were forced to settle the case.

Under the terms of the Todd settlement, the union must respect nonmem-

ber workers' right to refrain from full-dues-paying union membership and halt illegal bullying tactics such as threatening loss of employment for refusing to join the union. In addition, the union must also notify each worker in the store personally by mailing them a mandated notice of their rights.

While this win is encouraging, there is a long road ahead for the Buckeye State. Ohio is one of twenty four states that does not have a Right to Work law. Right to Work legislation makes union membership and dues payment strictly voluntary.

"Without the protections of Right to Work legislation, the workers of Ohio are left in perilous straits when union bosses demand financial tribute," said Foundation President Mark Mix. "Ohio ought to follow the lead of its neighboring states Indiana, Michigan and West Virginia, embrace worker freedom, and end Big Labor's special power to order a worker fired solely for refusing to pay dues to a union boss."



Invest in Worker Freedom... Make a Planned Gift Today!

As a generous supporter of the National Right to Work Foundation, you make a difference in the lives of millions of working men and women in our country. You can take your generosity a step further by placing the Foundation in your will or estate plans today to combat the injustices of compulsory unionism now and in the future.

With the upcoming elections in November and the economic uncertainty of what the future might bring with changes in the House and Senate, you can generate tax savings and possible lifetime income through a planned gift today. Recent issues of *Foundation Action* have highlighted many options and great benefits in planning your family's future, as well as ensuring that the Right to Work movement has the resources it needs to battle forced unionism throughout the country.

Be Part of the Foundation's Legacy Society

If you decide to invest in the Foundation's future work, you will be invited to become a member of the Foundation's Legacy Society.

Long-time Foundation donors Bill and Carol joined the Right to Work family in 1968 and continue their generosity by supporting the work of the Foundation. In addition, Bill and Carol are charter members of the Foundation's Legacy Society by making and informing us of their plans to support the Foundation through their estate.

"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," said Bill.

We appreciate that Bill and Carol have stepped up and become long-term partners in the battle against forced unionism. We have many other supporters who are also committed to the financial security of the Foundation's work through their will, trust, or other types of planned gifts.

We ask that each of you review your estate plans today and if you decide to partner with the Foundation with a bequest, we will enroll you in the Foundation's Legacy Society.

As with all planned gifts you consider, we encourage you to consult with a tax advisor or estate attorney before making the decision of a lifetime, like Bill and Carol!

If you have any questions or need additional information on a gift of a lifetime, please contact Ginny Smith at plannedgiving@nrtw.org or 1-800-336-3600 today.

We appreciate all you do for the Right to Work cause today and in the future.

Charitable Lead Trust

What if there were a way to make a charitable gift using funds that would eventually be returned to you or your loved ones through your estate? Well, there is such a way and it is called a “charitable lead trust.” Here are a few goals that can be achieved through such a trust instrument:

- ✓ You can make a significant gift.
- ✓ Your gift can be part of an overall plan that helps ensure future economic security for you or your loved ones.
- ✓ You may be able to provide your heirs with a larger inheritance than would otherwise be possible.
- ✓ Finally, you can reduce or eliminate income, estate, and gift taxes now and in future.

Charitable Remainder Trust

Another helpful financial and estate planning tool is the “charitable remainder trust,” a popular plan that can achieve long-term financial goals for you and your family. It pays an income for life leaving the remainder to a charity, such as the Right to Work Foundation. This tool can achieve the following benefits:

- ✓ Increase income from low-yield assets.
- ✓ Reduce or eliminate capital gain, estate and gift taxes that could otherwise be due.
- ✓ Diversify investments and create the potential for tax-free growth of assets.
- ✓ Create a source of income for children, parents, or other family members.
- ✓ Make a tax-deductible gift to the Foundation while securing an income stream for the rest of your life!

Through the Charitable Lead Trust or the Charitable Remainder Trust, you have options at your fingertips to use your resources in ways that balance your needs with those of your loved ones and your favorite charitable institution, like the Foundation. Thanks to these and other estate tools, you can blend the making of charitable gifts today and leaving an inheritance to your loved ones tomorrow, or vice versa.

Right to Work In the News

The National Right to Work Foundation’s Legal Information department works to highlight the injustices of compulsory unionism through the media. This serves not only to raise awareness of the problem of forced unionism with the American public, but also to inform workers of their legal rights and the Foundation’s free Legal Aid program.

Below are just some of the Foundation’s media hits in the months prior to this issue of *Foundation Action* going to print.

The Daily Beast, June 5
 Washington Free Beacon, June 8
 Bishop on Air WMAY, June 8
 Law360, June 9
 Watchdog.org, June 9
 The Daily Caller, June 10
 Washington Free Beacon, June 13
 Reuters, June 14
 National Review Online, June 16
 The Vicki McKenna Show, June 17
 Michael Dukes Show KBYR June 20
 Washington Free Beacon, June 28
 The Daily Caller, June 28
 Politico Pro, June 28
 Politico, June 29
 Chicago Daily Law Bulletin, June 29
 Education Week, June 30
 National Law Review, July 11
 Bloomberg Daily Labor Report July 13
 The Tennessean, July 18
 Washington Free Beacon, July 19
 The Daily Caller, July 20
 WLPN, July 20
 Illinois News Network, July 21
 The Daily Caller, July 24
 Conservative Review, July 26
 WSB-AM, July 26
 RightWisconsin.com, August 1
 WisconsinWatchdog.com, August 2
 The Liberty Roundtable, August 2
 InsideSources.com, August 3
 Sangamon Sun, August 4
 School Reform News, August 5
 Politico, August 8
 InsideSources.com, August 8
 West Virginia Radio Network, August 10
 RT Television Network, August 10
 RightWisconsin.com, August 11
 Townhall.com, August 12
 Washington Free Beacon, August 12
 WVEA.org, August 12
 Law 360, August 12

Foundation Defends Wisconsin Right to Work Law in State and Federal Court

Union lawyers claim 'right' to forced dues in legal attacks on Right to Work

MADISON, WI - SINCE 1968, the National Right to Work Legal Defense Foundation has been fighting for independent minded workers' right to labor free of union coercion. Over that time, the Foundation has defended that right from countless attacks in the courts by Big Labor. That legacy now includes fighting back against two union boss cases challenging Wisconsin's popular new Right to Work law.

In May, lawyers for the International Union of Operating Engineers (IUOE) Locals 139 & 420 brought suit in federal court, challenging Wisconsin's Right to Work law. The attack comes on the heels of a similar challenge to Idaho's Right to Work law.

Union bosses are also challenging the Wisconsin Right to Work law in state court. There they even convinced a local elected judge to rule against the law. However, the state appeals court quickly stayed the judge's ruling, and legal observers expect the Wisconsin Supreme Court to ultimately uphold the law.

Foundation Files Brief in Federal Court Challenge

In response to the federal court case, Foundation staff attorneys filed an *amicus curiae* brief in July for a number of workers who sought assistance from the Foundation. These workers are supporters of the Right to Work law and would be forced to pay union fees or be fired if the law, which was passed in 2015, is struck down.

In their suit, union officials claim that the Fifth Amendment "Takings" clause grants them the right to force all workers to pay union dues, even those who want nothing to do with the union bosses. This outlandish legal theory



After failing to derail Wisconsin Right to Work by occupying the capital building with rowdy demonstrations, Badger State union bosses are now turning to last gasp lawsuits.

ignores the fact that union officials benefit greatly from the government-granted power to impose their monopoly representation on every worker, including those who would reject union so-called "representation" if given the choice.

This suit was filed by the same union lawyers who are behind the recent attack on the Right to Work law in Idaho to which the Foundation is also responding in the courts. Foundation staff attorneys filed a brief in the Idaho case in June.

Union lawyers know that, if they can get just one federal appeals court to strike down Right to Work laws, it would set up a circuit split that would end up in a showdown at the U.S. Supreme Court with the fate of every state Right to Work law in the balance. If state Right to Work laws are struck down, Big Labor would secure billions of dollars more in forced dues revenues every year.

"Big Labor lawyers continue to

attack Right to Work protections for workers, despite 60 plus years of state and federal appellate courts, and the United States Supreme Court consistently upholding the legal principle," stated Raymond LaJuenesse, vice president and legal director of the National Right to Work Foundation. "Forced unionization is extortion, breeds corruption, and hurts those whom Big Labor claims to represent. State Right to Work Laws should stand as protections that any worker can claim."

Five Pro-Right to Work Employees Defend Rights in State Court Case

Foundation staff attorneys have also actively defended Wisconsin's Right to Work law in the lawsuit initiated by Machinists union lawyers in a union boss-friendly state court in Dane County, including participating in oral arguments and filing briefs. As in the

See WISCONSIN STATE COURT BATTLE page 8

Ohio Worker Hits Union Boss with Federal Charges

Case emphasizes the need for a Right to Work Law in Ohio



Forced dues, like the ones illegally seized from Troy Bowling, are used to back union bosses' handpicked political candidates.

forced-dues union expenditures. This safeguard helps inform workers of how their forced union dues are being spent.

DAYTON, OH – With free legal assistance from National Right to Work staff attorneys, an Ohio worker has filed federal unfair labor practice charges against International Brotherhood of Electrical Workers (IBEW) Local 82 union officials.

According to charges filed by Troy Bowling, union officials violated federal law by ignoring his attempt to resign from the union and pay less than full dues. Furthermore, union officials have also violated federal law by refusing to give Bowling, an employee of Cox Media Group of Ohio, the required independently-audited financial breakdown of all forced-dues union expenditures.

Under federal case law, private-sector workers have the unconditional right to refrain from formal union membership. Because Ohio lacks Right to Work protections, employees can still be required to pay union dues or fees as a condition of employment. However, in the Foundation-won *Communications Workers v. Beck* case, the U.S. Supreme Court held that workers who refrain from formal union membership have the right to refrain from paying for union boss politics and any other activities unrelated to workplace bargaining.

Additionally, union officials must also provide workers with an independently-audited financial breakdown of all

With the general election rapidly approaching, and big labor planning to spend over \$2 billion, the importance of this is amplified. Many unionized workers disagree with the radical political agenda promoted by Big Labor's hierarchy. A scientific survey of union members commissioned by the National Right to Work Foundation found that a majority of union members support the freedom of choice provided by Right to Work laws, even as union bosses use opposition to Right to Work as a litmus test for receiving union boss political backing.

In recent years the pressure on Ohio to adopt a Right to Work law has mounted. Three of the states that border Ohio – Indiana, Michigan and West Virginia – have enacted Right to Work protections for workers in the past five years.

"Protecting the Right to Work is especially important in an election year, when union bosses are preparing to unleash a billion dollar blitz to elect their forced dues puppets in November. No worker should be forced to bankroll a politician or cause with which they fundamentally disagree," commented National Right to Work Foundation President Mark Mix. "This case demonstrates the immediate need for Ohio to pass a Right to Work Law to provide protections for workers." 🗳️

WV Right to Work

continued from page 1

August 10 a Judge on the Kanawha County Circuit Court - apparently accepting union officials' disingenuous claims as fact - issued a temporary injunction in the case. The ruling delays West Virginia workers' ability to exercise their workplace freedoms under the laws, though the attorney representing the West Virginia Attorney General's office immediately asked for a stay of the order for the purpose of filing an appeal.

Foundation staff attorneys are already preparing to support the expected appeal in court. Legal Experts in the state have long expected that no matter the outcome at the lower court, the matter would ultimately be settled at the West Virginia State Supreme Court.

The Foundation has a long history of successfully defending Right to Work laws in state and federal court, most recently in Indiana and Michigan. Foundation attorneys have also filed briefs in Wisconsin in response to union lawsuits challenging the Badger State's recently enacted law (see p. 6).

Foundation Task Force set to defend and enforce West Virginia Law

After the West Virginia Legislature overrode Governor Tomblin's veto and became the 26th Right to work state on February 4, the National Right to Work Legal Defense Foundation announced an offer of free legal aid to any employees seeking to assert their rights under the new law.

The Foundation also created a special legal task force to defend the West Virginia law, which went into full effect July 1, from any Big Labor legal challenges. A special notice for West Virginia employees can be found online at www.NRTW.org/WV-RTW. 🗳️


Wisconsin State Court Battle

continued from page 6

federal lawsuit against Wisconsin's Right to Work law, union officials claim that they have a 'right' – this time under the Wisconsin State Constitution – to seize money from workers who oppose the union.

Instead of rejecting the outrageous claim, a Dane County judge ruled for union lawyers. However, the appeals court stopped the judge's ruling from going into effect, citing a likelihood that it would be overturned on appeal. In early August, Foundation staff attorneys filed a brief with the appeals court for five employees who would be forced to pay union dues or fees without Wisconsin's Right to Work protections.

Like the federal court amicus brief, the brief in the state court of appeals argues that the district court judge misinterpreted the law to uphold union boss forced dues powers. Although most experts think the union's lawsuit will fail at the Wisconsin State Supreme Court, the case highlights the dangers of activist judges who favor union power.

"The logic of the union arguments is faulty. However, the ruling by the Dane County Circuit Court judge demonstrates that union attorneys are just searching for judicial activists who are willing to ignore legal precedents and advance their policy preferences," said LaJeunesse. 

Extra! Extra! Newsclips Requested!

Send articles exposing abusive union practices from your local paper to:
NRTWLDf

ATTN: Newsclip Appeal
8001 Braddock Road, St. 600
Springfield, VA 22160

Supporters can also email stories to:
info @NRTW.org



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter:

I hope you enjoyed a well-deserved long weekend this Labor Day, a day intended to celebrate the fruits of workers' labor. Unfortunately only in 26 states do workers get this chance, free of forced unionism coercion.

Millions of workers scattered across the 24 states that lack Right to Work laws are forced to pay tribute to a union boss just to work to support their families. Even in states with Right to Work laws, union bosses continually find ways to skirt the law and collect more dues.

Meanwhile, Big Labor's high command is salivating at the opportunity to elect more subservient politicians this fall, who in turn will corral more forced dues payers into their grasp.

That is why your support is so crucial. With our team of 19 staff attorneys, the National Right to Work Foundation is the leading organization that has the ability to defend state Right to Work Laws while continuing to defend workers against union boss abuse all across the country.

As you will read in this issue of *Foundation Action*, Foundation attorneys have been hard at work defending Right to Work Laws in West Virginia and Wisconsin and protecting workers from compulsory unionism abuses in Ohio and Pennsylvania.

Without your support we could not be doing all the great work for workers that we are now doing.

Last Labor Day workers in only 25 states had Right to Work protections. This Labor Day thousands more workers in West Virginia finally had the chance to decide whether they want to pay union dues and fees.

I cannot wait until the Labor Day that all workers in our country have this choice. We're in this fight for the long haul, and we couldn't do it without your help.

Sincerely,

Mark Mix



Foundation *Action*

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

Vol. XXXVI, No. 5

8001 Braddock Road • Springfield, Virginia 22160

www.nrtw.org

September/October 2016

Foundation Files Brief Defending West Virginia Law from Union Lawsuit

As expected, union bosses are trying to derail and delay the law through dubious lawsuits

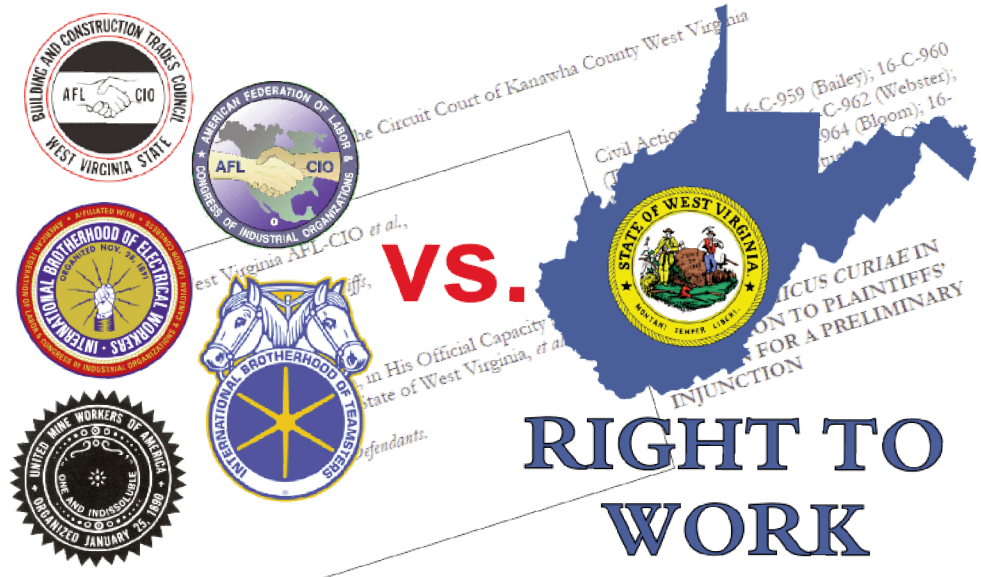
CHARLESTON, WV – Foundation staff attorneys have filed an *amicus curiae* brief in defense of West Virginia's recently-enacted Right to Work law. The brief was filed in Kanawha County Circuit Court in response to lawsuits filed by 10 state unions and a union member.

The brief – filed in each of the cases brought by West Virginia union bosses – debunks union lawyers' claims that West Virginia's Right to Work law is somehow different from the other 25 state Right to Work Laws which have withstood intense legal scrutiny for over 60 years, having never been struck down by a federal court or a state appellate court.

Big Labor lawsuits seek to preserve forced union dues

The brief responds to a series of spurious arguments made by union lawyers that union officials have a constitutional right to extort forced dues and fees. Foundation attorneys note that the National Labor Relations Act grants them immense workplace power to impose a one-size-fits-all union contract on all employees – union and nonunion alike – in a union-controlled bargaining unit.

These flawed Big Labor arguments have already been rejected by a Federal Court of Appeals and the Indiana Supreme Court when it was raised in



Even before West Virginia's Right to Work law took full effect, Big Labor lawyers filed eleven lawsuits seeking to overturn the popular new law.

cases involving Indiana's Right to Work law.

"West Virginia union bosses are asking the Kanawha Circuit Court to reject over 60 years of legal precedent," said Raymond LaJeunesse, vice president and legal director of the National Right to Work Foundation. "West Virginia's Right to Work law should not be overturned on the basis of an outrageous and rejected legal theory advanced by union lawyers, who are attempting to create a constitutional 'right' for union bosses to extort money from workers forced to accept unions' monopoly control over them."

Unfortunately, in a hearing on

See WV Right to Work page 7

IN THIS ISSUE

- 2 Farm Workers Vote to Remove Unwanted Union Finally Accepted
- 3 Ohio Union Bosses Forced to Back Down From Unlawful Dues Demands
- 4 Spotlight: Ways to Invest in Worker Freedom Today!
- 6 Foundation Defends Wisconsin Right to Work Law in State and Federal Court
- 7 Ohio Worker Hits Union Boss with Federal Charges