



Foundation *Action*

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Bluegrass State Workers Defend Right to Work from Big Labor Attack

Foundation attorneys intervene on behalf of Kentucky employees to defend worker freedom

FRANKFORT, KY - National Right to Work Legal Defense Foundation staff attorneys have successfully moved to intervene in a case launched by Kentucky union bosses seeking to overturn the Commonwealth's recently enacted Right to Work law. The motion to intervene was filed for several Kentucky workers who support the workplace freedom provided by the Right to Work law Governor Matt Bevin signed into law in January.

Days after passage of the law, the National Right to Work Foundation announced a special legal task force to defend and enforce the law, which strips union bosses of their power to force workers to pay money to a union or be fired. In May, AFL-CIO and Teamsters Local 59 union officials, seeking to restore their forced-dues powers, sued the Commonwealth, asking the courts to declare the Right to Work bill unconstitutional and to halt its enforcement.

On July 26, the Franklin Circuit Court granted the Foundation-aided workers' motion to intervene in the case. The Court noted that the outcome of the union boss lawsuit "impacts an employee's compulsory payments to a union" which would "diminish their ability to freely associate with groups with which they ideologically identify."

As a full party to the case, the



With Foundation legal aid a group of workers, including Jacob and William Purvis (inset), successfully intervened to defend Kentucky's Right to Work law which Governor Matt Bevin (left) credits with attracting record investment and new jobs.

workers — through their Foundation-provided attorneys — can ensure that the strongest possible arguments are presented to the court, including ones that might not be raised by the Commonwealth's attorneys. Foundation staff attorneys have extensive experience defending Right to Work laws against spurious union lawsuits, including ongoing cases in Wisconsin, West Virginia, and Idaho.

"This ruling ensures that Bluegrass State workers whose rights are protected by Kentucky's new Right to Work Law, can participate in the defense of the law," said Patrick Semmens, Vice President of the National Right to Work Legal Defense Foundation. "Kentucky union bosses are making deceptive legal arguments in an attempt to restore their power to have workers fired for refusing to pay part of their hard-earned paycheck to

unions they don't support."

"Kentucky is already reaping the benefits of protecting worker freedom, as the state has had record

See *KY Right to Work* page 8

IN THIS ISSUE

- 2 Michigan Welder Wins Settlement, Back Wages for Illegal Union Discrimination
- 3 Defend Workplace Freedom With a Planned Gift
- 4 Petition to Supreme Court: Forced Dues Incompatible with First Amendment
- 6 Featured Commentary: Booming Kentucky Fights Back Against Big Labor
- 7 Verizon Worker Fights Illegal \$22K Union Fine

Michigan Welder Wins Settlement, Back Wages for Illegal Union Discrimination

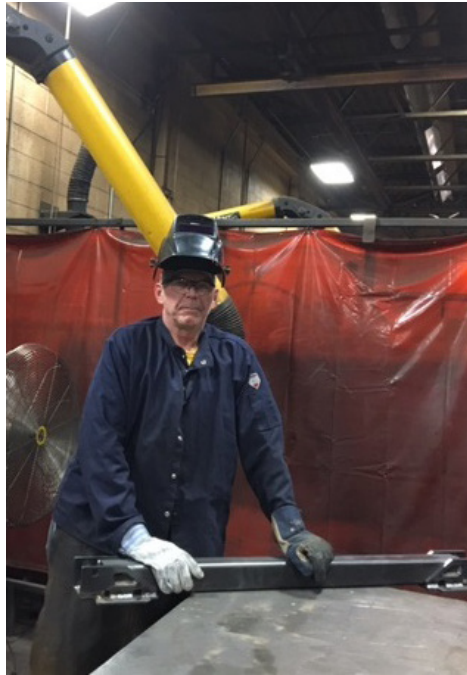
UAW bosses illegally cut worker's wages for exercising Right to Work

DETROIT, MI - With free legal assistance from National Right to Work Legal Defense Foundation staff attorneys, Richard Dettman, a Ludington, MI welder, successfully challenged an illegal United Autoworkers (UAW) union boss scheme to lower the wages of workers who exercise their right to resign and cut off dues payments under Michigan's Right to Work Law.

Union Officials Violate Spirit of Michigan's Right To Work Law

Since 1992, Dettman has worked for Harsco Rail as a welder. Dettman had previously achieved his "journeyman" card due to his skilled trade work experience, which entitled him to an additional \$0.75 per hour in wages. However, when Dettman exercised his right to resign his union membership in February 2017, he soon faced an illegal attempt by UAW officials to strip him of the journeyman card he had earned and the corresponding extra pay.

When UAW officials stripped Dettman of his journeyman status,



Richard Dettman challenged illegal union discrimination by UAW union bosses and won a settlement including back pay.


his employer, Harsco Rail, then lowered his wages as part of the union boss-negotiated monopoly bargaining contract. For six weeks, Dettman was paid a lower wage as a result of the union retaliation.

In response, Dettman filed charges with the National Labor Relations Board (NLRB) against both the company and union officials after turning to the National Right to Work Foundation for free legal assistance. Faced with a likely NLRB prosecution for violating Dettman's rights, UAW bosses and Harsco Rail settled the case.

After receiving the NLRB charges, Harsco Rail paid Dettman the wages he had lost as a result of the UAW officials' actions. As part of the settlement, the UAW and the company also amended the monopoly bargaining agreement so that resigning from the union can no longer cause a worker to lose their wage premium due to the loss of their journeyman card, and to ensure that qualified workers can earn their wage premium through various other options, not just those provided by Big Labor.

Welder Thanks Foundation For Free Legal Assistance

"I was fortunate to have been allocated staff attorney Amanda Freeman from the National Right to Work Legal Defense Foundation, after submitting an online form requesting legal assistance," said Dettman following his victory over illegal union boss discrimination. "Because of that, we have equal rights for all employees, union affiliated or not."

Regarding the successful outcome, National Right to Work Foundation Vice President and Legal Director Ray LaJeunesse observed: "This case shows why strict enforcement and due diligence is needed in all Right to Work states. Union officials are always looking for new ways to deny the rights of workers, like Mr. Dettman, who refuse to toe the union line." 

Foundation Action

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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.

Defend Workplace Freedom! Make a Planned Gift Today With a Charitable Gift Annuity

Our battle to end forced unionism abuses in America and protect the Right to Work for every worker in the country will not be won overnight. A Charitable Gift Annuity (CGA) can help you assist the work of the National Right to Work Foundation now – and well into the future.

A Foundation CGA is an agreement in which fixed payments (dispersed monthly, quarterly, semi-annually, or yearly) are made for the lifetime of one or two annuities in return for a gift to the Foundation. A portion of the payments is considered to be a tax-free return of principal, which is recovered over a period of years.

You can make a long-term gift today, in the form of a CGA, and assist the Foundation in making a difference in the courts for workers across the country who are standing up to battle compulsory unionism in the workplace.

As an itemizing taxpayer, you will receive an immediate tax deduction for the charitable contribution portion of your gift to the National Right to Work Foundation.

In addition, initially, a portion of the annuity payments will be tax-free as a return of principal. The amount of that tax-free return of principal will vary depending on your particular situation.

In a two-life annuity situation, both the husband's and wife's ages are considered and may make a difference in the annuity rate and payout amounts of the agreement.

If you decide to make a Charitable Gift Annuity with the Foundation, we will send along information on how you can enroll in the Foundation's Legacy Society. A planned gift of any kind — a gift left in your will, a trust, or outright gift of cash in your estate plans — will qualify you to enroll in the Legacy Society and receive the benefits of this recognition along with the assurance that you made a significant contribution to the Foundation's ongoing strategic litigation and media programs.

When considering a planned gift to the Foundation, you should consult your estate planning attorney or tax advisor to be sure that your decision best meets your financial and long-term estate goals for you and your family.

If you have any questions or need the Foundation to send you a no-obligation sample CGA for your review, please contact Ginny Smith, Director of Strategic Programs, at 703-321-8510 or 1-800-336-3600.

Please take a careful look at the enclosed brochure that will further answer any questions you may have regarding a Charitable Gift Annuity with the Foundation.

Donations to the Foundation are tax deductible in the same manner as donations to a church or university. As in all legal, tax, and financial matters, please consult your tax advisor or estate planning attorney before making a decision on a planned gift or stock contribution.

Petition to Supreme Court: Forced Dues Incompatible with First Amendment

Brief lays out case for overturning 1977 ruling permitting mandatory union payments

WASHINGTON, DC - On June 6, Illinois state employee Mark Janus filed a petition with the U.S. Supreme Court asking the High Court to agree to hear his case challenging forced union fees as a violation of his First Amendment Rights.

The brief is authored by National Right to Work Legal Defense Foundation staff attorneys, along with attorneys from the Liberty Justice Center in Illinois. National Right to Work Foundation staff attorney William Messenger is the counsel-of-record in the case and would argue the case before the Court if the Supreme Court grants certiorari.

The following excerpt highlights some of the brief's key arguments.

No. 16-____

IN THE
Supreme Court of the United States

MARK JANUS,

Petitioner,

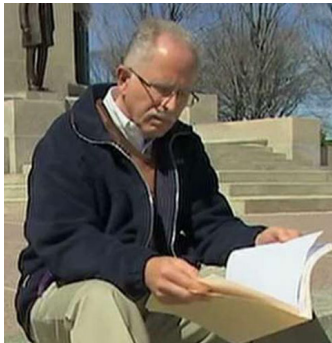
v.

AMERICAN FEDERATION OF STATE, COUNTY, AND
MUNICIPAL EMPLOYEES, COUNCIL 31, ET AL.,

Respondents.

**On Petition for Writ of Certiorari to the
United States Court of Appeals
for the Seventh Circuit**

PETITION FOR WRIT OF CERTIORARI



Illinois state employee Mark Janus says his First Amendment rights are violated when he is forced to fund union activities.

I. The Court Should Reconsider *Abood* and Hold Agency Fees Unconstitutional.

A. *Abood*'s Validity Is a Matter of Exceptional Importance Because Agency Fee Requirements Are Widespread and Egregiously Infringe on First Amendment Rights.

1. It is a "bedrock principle that, except perhaps in the rarest of circumstances, no person in this country may be compelled to subsidize speech by a third party that he or she does not wish to support." Yet agency fee requirements are not rare. Janus and millions of public employees are subject to agency fee requirements that compel them to subsidize the speech of a third party that they may not wish to support. This significantly impinges on the First Amendment rights of each and every employee who did not choose to subsidize the union's advocacy. Such employee is being deprived speech is worthy of his or her support.

"Janus and millions of public employees are subject to agency fee requirements that compel them to subsidize the speech of a third party that they may, not wish to support."

“There is little distinction between forcing Illinois public employees to directly support the Democratic Party, and requiring Illinois public employees to financially support advocacy groups with agendas closely aligned with that political party.”

With agency fees, the government is “substituting its judgment as to how best to speak for that of speakers” and violating “the First Amendment’s mandate that ...speakers, not the government, know best both what they want to say and how to say it.” The infringement that agency fees inflict on public employees’ rights is particularly egregious because those fees support speech designed to influence governmental policies. While compelled subsidization of any speech offends First Amendment values, compelling support for political speech is particularly offensive because “expression on public issues ‘has always rested on the highest rung of the hierarchy of First Amendment values.’”

In fact, agency fees inflict the same grievous First Amendment injury as the government forcing a citizen to support a mandatory advocacy group to lobby the government. This is because an exclusive representative’s function under the IPLRA and other public-sector labor statutes is quintessential lobbying: meeting and speaking with public officials, as an agent of interested parties, to influence public policies that affect those parties. Janus and millions of other public employees are effectively being required to support a government-appointed lobbyist.

If the First Amendment prohibits anything, it prohibits the government from dictating who speaks for citizens in their relations with the government. Agency fees interfere not only with individual liberties, but also with the political process the First Amendment protects...Agency fees transform employee associations into artificially powerful factions. This skews the “marketplace for the clash of different views” that the “Court has long viewed the First Amendment as protecting.”

In many ways, agency fee requirements have replaced unconstitutional political patronage requirements as the means by which government officials compel support for advocacy organizations that share their agendas. A plurality of this Court held in 1976 that states could not force most public employees to support a political party, but then inconsistently held in *Abood* that states could force employees to support a representative for petitioning the government. These requirements are constitutionally indistinguishable. There is little distinction between forcing Illinois public employees to directly support the Democratic Party, and requiring Illinois public employees to financially support advocacy groups with agendas closely aligned with that political party.

The constitutionality of agency fees thus presents an issue of exceptional importance. *Abood* is a root cause of the widespread infringement agency fees wreak on First Amendment rights. ⚖️



The Supreme Court could take the case this fall with arguments likely in early 2018.

The full petition and more information can be found online at www.nrtw.org/janus.

Featured Foundation Commentary

Newsmax

Booming Kentucky Fights Back Against Big Labor

Reprinted from Newsmax June 22, 2017



For seven decades, union bosses across the nation have tried again and again to get federal and state courts to overturn state Right to Work statutes and constitutional amendments protecting employees from termination for refusal to pay dues or fees to an unwanted union.

Union officials' legal crusade has been extraordinarily, if not completely, unsuccessful.

But on May 25, AFL-CIO and Teamster union kingpins launched yet another judicial attack on Right to Work. A Big Labor lawsuit filed that day in the Franklin Circuit Court in Frankfort, Kentucky, is based on the outrageous premise that part of a worker's paycheck is actually the property of union officials. Union lawyers are brazenly claiming that the Bluegrass State Right to Work law adopted in January violates the Kentucky Constitution!

Lawyers for the state AFL-CIO and Louisville-based Teamsters Local 89 are contending the Kentucky Constitution mandates that Big Labor have what amounts to taxation power over employees who are subject to government-imposed "exclusive" union representation.

Their argument pointedly ignores a key function of union monopoly bargaining examined by U.S. Supreme Court Justice Robert Jackson in his 1944 *J.I. Case* decision. Jackson explained that "exclusivity" as authorized by the National Labor Relations Act empowers union bosses to prevent the individual employee from negotiating directly with the employer in order to get "better terms than those obtainable by the group."

From the perspective of the *J.I. Case* court, this is acceptable, because, as the Jackson majority

opinion put it, "The practice and philosophy of collective bargaining look [] with suspicion on individual advantages." In other words, union monopoly bargaining powers inherently empower union officials to impose a contract to the detriment of some workers.

Instead of acknowledging the uncontested findings of *J.I. Case*, however, Kentucky AFL-CIO and Teamster union lawyers are opting to pretend that stripping workers of the freedom to represent themselves somehow "benefits" all of them. In Big Labor's alternative universe, finding a rationalization for killing the country's 27th state Right to Work law through judicial activism becomes much less difficult.

Unfortunately, long and bitter experience indicates that far-fetched and factually challenged arguments sometimes do prevail in court.

But do the Kentucky judges who will hear the anti-Right to Work case in the Franklin Circuit and, almost inevitably, on appeal really want to be responsible not just for reinstating forced union dues and fees, but also for potentially ending one of the most remarkable economic booms in the state's history?

At a May 26 press conference, Gov. Matt Bevin, who had aggressively and successfully campaigned on ending forced unionism in Kentucky in 2015 and signed the state's Right to Work law this January 7, laid out the economic stakes of the case brought by AFL-CIO and Teamster union kingpins.

Not quite five months into the year, reported the governor, the state had already attracted a total of \$5.8 billion in announced private capital investments. That far surpasses Kentucky's previous annual record of \$5.1 billion, achieved in the entirety of 2015. Bevin said he wouldn't be surprised if the state reaches \$10 billion in capital investments by the end of the year, roughly doubling its previous record.

"This is going to be a year that shatters anything that preceded it," he vowed. And he didn't harbor any doubts about why, "It's happening because our Legislature passed pro-business legislation — right-to-work legislation."

As the prime example of how Right to Work Kentucky is now "competing for industries that we would never have gotten," Bevin mentioned

Continued next page

Featured Commentary (continued)

the late April announcement by Braidy Industries that it would build a \$1.3 billion aluminum rolling mill in Greenup County.

Construction will begin next year. When the plant is finished, it will hire roughly 550 workers for jobs paying \$70,000 a year, plus benefits. And according to Braidy CEO Craig Bouchard, without Right to Work, Kentucky “wouldn’t have been on the list” of possible sites.

The Big Labor litigation, charged the governor, puts such good-paying job opportunities at risk. “I say shame on the AFL-CIO for bringing this suit . . .,” which “will hurt working-class people,” he declared.

Bevin is committed to fighting to defend Kentucky’s Right to Work law to the hilt, and his legal team is gratefully accepting the assistance of National Right to Work Legal Defense Foundation attorneys as it prepares for the battle. There is ample reason to believe Big Labor’s cynical scheme to bring back forced unionism will not, in the end, succeed, but the consequences of this windmill-tilting exercise might include reduced job opportunities for Kentucky workers.

At the conclusion of his May 26 press conference, with this concern in mind, the governor urged the union brass to “get out of the way” and allow rank-and-file employees to benefit from the Right to Work law. Unfortunately, this plea will almost certainly go unheeded. ⚖️

National Right to Work Foundation President Mark Mix writes the “Freedom at Work” column for Newsmax.com

Verizon Worker Fights Illegal \$22K Union Fine

Union bosses continue to illegally levy strike fines against Verizon employees



Big Labor-backed politicians Hillary Clinton, Bernie Sanders and NYC Mayor Bill de Blasio rallied with union bosses who illegally issued retaliatory strike fines against Verizon employees who chose to work to support their families.

BROOKLYN, NY – With free legal assistance provided by National Right to Work Legal Defense Foundation staff attorneys, Brooklyn Verizon employee Pamela Ivy filed federal unfair labor practice charges against the Communications Workers of America (CWA) union officials. Her charges detail how CWA union bosses violated Ivy’s rights after she chose to exercise her right to resign her union membership and work despite union boss demands that she participate in a high-profile strike they called in spring 2016.

In April 2016, CWA and IBEW union officials announced a coordinated work stoppage at Verizon facilities and organized workers up and down the East Coast, from Massachusetts to Virginia. CWA Local 1109, which is the subject of Ivy’s ULP charges, participated in the multi-state strike.

Soon after CWA union officials ordered the strike, Ivy returned to work on April 16. On April 19, she officially resigned union membership in a letter mailed to union officials. Under federal law, workers cannot be compelled to join a union boss-ordered strike.

However, under a 1972 National Labor Relations Board (NLRB) ruling, workers must resign their formal union membership before returning to work to protect themselves from internal union discipline, as Ivy did on April 19. Despite that, union officials

are attempting to fine her not just for working before she resigned but also for working afterwards. Specifically, she is being fined approximately \$22,000 for working through the end of May.

“Once again union officers are blatantly violating the rights of the very workers they claim to represent,” said Mark Mix, President of the National Right to Work Foundation. “It is outrageous that union officials resort to this type of ugly retaliation to ‘punish’ workers who choose to return to work to provide for themselves and their families.

“The Foundation has successfully defended several other Verizon workers in the New York area who were also threatened with sham trials and five-figure illegal fines, and we are eager to assist these and any other workers in defending their workplace rights,” added Mix.

Prior to this case, Foundation staff attorneys have defended 15 Verizon workers from retaliation by CWA and IBEW union officials after the same April 2016 East Coast strike. Seven of the workers were fined up to \$14,000 each for exercising their federally protected rights. The remaining eight were threatened by union bosses with “union discipline” that would have resulted in similar fines. In 11 of those cases, union officials have already been forced to settle with the workers with all of the illegal strike fines and threats rescinded.



KY Right to Work

continued from page 1


job creation in the months since Right to Work was enacted,” Semmens continued. “The striking success that Right to Work has been for Kentucky makes it even more shameful that union bosses are seeking to undo that progress just to restore their power to extort dues from unwilling workers.”

Kentucky Already Booming Under Right to Work

The Right to Work legislation in Kentucky is responsible for the significant economic stimulus brought in by private companies this year, guaranteeing Bluegrass state workers not just the right to exercise their freedom of association, but economic advantages as well.

Kentucky Governor Matt Bevin announced on June 14, 2017, that the greatest year “in terms of new investment commitments of capital to be invested in the Commonwealth of Kentucky in any calendar year was \$5.1 billion.” He continued, “We’re delighted by the fact that here not even yet the end of April, we are already in excess of \$5.8 billion far exceeding anything that’s ever been done in a full calendar year and we are just getting warmed up.”

Bevin credited the Right to Work legislation as the source for the jobs and investment: “We are now competing for business. We never would have gotten [thousands of jobs at] Braidy Industries... they only came here and would only be here because of the fact that we’re a Right to Work state.”

With so much at stake, National Right to Work Foundation staff attorneys’ successful intervention is a crucial first step in defending workplace freedom against the union boss lawsuit to overturn Right to Work and re-impose Big Labor’s forced-dues powers. 



Message from Mark Mix

President
National Right to Work
Legal Defense Foundation

Dear Foundation Supporter,

Now more than ever, the National Right to Work Foundation is at the frontlines of the fight to end forced unionism – from the United States Supreme Court to lower courts to administrative agencies to the court of public opinion.

With six new Right to Work laws enacted since 2012, the legal battles are lining up one after another as more union bosses scheme to undo, repeal, or flagrantly ignore these laws.

One example highlighted in this issue of *Foundation Action* is the case of Richard Dettman, a veteran welder from Ludington, MI. Autoworker union bosses retaliated against him by lowering his wages when he exercised his rights under Michigan’s Right to Work Law to leave the union and stop payment of dues.

With free legal assistance from Foundation staff attorneys, Dettman fought back and won a settlement securing his rights and the additional wages that UAW union officials had sought to deny him.

Especially around Labor Day, it is important that we remember stories like Mr. Dettman’s and the illegal retaliation that independent workers face every day, even in Right to Work states.

Every year, union bosses trumpet their lies about Right to Work throughout the mainstream media on Labor Day. Fortunately, the Foundation is here to counter Big Labor’s propaganda and put a focus on the individual workers whose rights are violated by forced unionism.

Your support allows the Foundation to provide free legal aid to victims of forced unionism abuses like Mr. Dettman and ensure that their stories are widely publicized so the American people can see the toll forced unionism imposes on their fellow hardworking citizens.

Thank you for making this important work possible.

Sincerely,

Mark Mix