

55 CASES AND COUNTING LEGAL ACTION UPDATE

WA - OR - CA

OPT-OUT SCHEMES

The U.S. Supreme Court's landmark 2018 ruling in *Janus v. AFSCME* included language lifted directly from an amicus brief submitted by the Freedom Foundation urging the court to make clear that public employees cannot be considered union members until they've affirmatively and knowingly opted in, not the other way around. The Freedom Foundation has filed several lawsuits — including *Schumacher v. SEIU 775*; *Danielson v. AFSCME*; *Carey v. WEA*; and, *Chambers v. AFSCME* — demanding the unions return money obtained without this consent.

'HOTEL CALIFORNIA' CONTRACTS

Knowing they would likely lose *Janus*, unions preemptively pressured workers to sign deceptively worded membership cards making it nearly impossible to later opt out. The Freedom Foundation has challenged these practices in *Belgau v. WFSE*, *Anderson v. SEIU 503*, *Mendez v. California Teachers Ass'n.* and, most recently, *Kurk v. Los Rios*.

CAMPAIGN FINANCE

When unions fail to adequately report the extent of their political activities, the Freedom Foundation files complaints to the Public Disclosure Commission. Targets include the SEIU State Council — which agreed to pay a **\$250,000 penalty** — And, when the PDC and the Attorney General fail to take on cases of union law-breaking, the Freedom Foundation files litigation such as *FF v. Teamsters 117* and *FF v. SEIU 775* -- both cases where unions attempted to conceal millions of dollars in political activity.

MEDICAID REFORM

Federal Medicaid earmarked for low-income clients must be paid directly to the recipient. Instead, the unions are allowed to divert the money as dues before it gets that far. The Freedom Foundation has taken the lead in lobbying for needed reforms. It has also filed a lawsuit in California — *Polk v. SEIU 2015*, which seeks to stop the payments to the union — and another, *Freedom Foundation v. Ferguson*, against Washington's Attorney General. Ferguson is conspiring with AG's in Oregon and California as well as SEIU to stop the Trump administration from ending the practice of dues deductions from Medicaid!

PUBLIC DISCLOSURE

Unions seek to use taxpayer resources to make it easier for them to collect money for political purposes. The Freedom Foundation sued Washington State in *Freedom Foundation v. Inslee and DSHS* to prevent the state from diverting money from employees to SEIU's national political committee and in *Freedom Foundation v. Bethel School District* to prevent a local school district from engaging in the same deceit.

UNION FRAUD

The Freedom Foundation also represents individual members whose signatures were forged on membership forms.

LEGAL TEAM

Quarterly Report



Nine Attorneys & Four Paralegals

No one fights government unions more aggressively or successfully than the Freedom Foundation.

With over **55 ongoing legal cases**, we are defending workers and exposing the illegal actions of big government unions.

98 victories against the unions, resulting in over **\$550,000** in settlements and fees unions have been forced to pay.

Union legal fees fighting Freedom Foundation

\$8 Million and counting

FREEDOM
FOUNDATION 

FEATURED CASE

FREEDOM FOUNDATION CTA LAWSUIT COULD YIELD LANDMARK RULING

The Freedom Foundation's Mariah Gondeiro, along with nationally respected attorney Harmeet Dhillon, hope a seed planted in the minds of the U.S. Supreme Court three years ago will bear fruit for five California teachers — and many more to come — seeking freedom from their union.

The pair believe their clients, despite having recently signed new membership cards with the California Teachers Association, are entitled to opt out because they were never informed that in doing so they were waiving their First Amendment rights.

In 2015, prior to oral arguments in an earlier case, *Friedrichs v. California Teachers Association*, Freedom Foundation attorneys submitted an amicus brief noting that

just banning mandatory dues or agency fees for public employees wasn't enough. The ruling also needed language addressing one of the unions' favorite tricks — assuming all workers are dues-paying members until they successfully opt out, rather than the other way around, then making the opt-out process as difficult as possible.

Friedrichs ultimately ended in a deadlock following the death of Justice Antonin Scalia, but when the issue was revisited by the full court last summer in *Janus v. AFSCME*, Justice Samuel Alito's majority opinion borrowed language almost directly from the Freedom Foundation brief:

"Neither an agency fee nor any other payment to the union may be deducted from a non-member's wages, nor may any



other attempt be made to collect such a payment, unless the employee affirmatively consents to pay."

And later:

"By agreeing to pay, nonmembers are waiving their First Amendment rights, and such a waiver cannot be presumed."

Those provisions form the crux of the Freedom Foundation's case, *Mendez, et. al. v. CTA*.

"The court made clear that union membership must be affirmative and informed,"

Gondeiro explained. "But how could the teachers possibly have been informed they were waiving rights that hadn't been affirmed until Janus?"

Short answer: They can't.

And when Mendez is ultimately decided, perhaps again by the Supreme Court, it has the potential to invalidate virtually every public-sector union membership in the country.

LEGAL WARRIOR SPOTLIGHT



MARIAH GONDEIRO

Mariah's Background:

Mariah earned her JD from Pepperdine University School of Law. While at Pepperdine, Mariah competed on the track and field and cross-country teams. Her work experience includes time at a well-respected plaintiff's law firm, the Los Angeles County District Attorney Office and the Los Angeles Dependency Lawyers. Mariah has a long-standing, strong interest in curbing government overreach that treads on the rights of individuals, including interning for U.S. Rep. Steve Daines during her undergraduate studies. When not working, Mariah spends her time enjoying the great outdoors with her husband, training for triathlons, and spending time on her family ranch.

FEATURED LEGAL VICTORIES

SEIU 775 SETTLES FORGERY CASE

Cindy Ochoa, a home healthcare provider from Spokane, was quick to opt out of SEIU 775 after the U.S. Supreme Court in its 2014 *Harris v. Quinn* ruling affirmed her right to do so. But by 2017, the union was again deducting dues from her paycheck. She later discovered her name had been forged to a membership application.

Even so, it took more than a year for the union to own up to its fraud.

But on March 29 — spurred to action by a lawsuit filed the previous October by the Freedom Foundation — SEIU 775 agreed to pay \$15,000 to Ochoa and \$13,000 for the Freedom Foundation's legal fees.

It also issued an apology, which in some ways is more gratifying than money.

AFSCME RETURNS STOLEN DUES

After AFSME 2620 repeatedly rejected employee requests at the California Department of Social Services to resign from the union post-Janus, the Freedom Foundation intervened on behalf of the workers and threatened to sue. Under threat of litigation, the union permitted these workers to resign and returned illegally confiscated dues.

PROFILE IN COURAGE

MENDEZ TAKES ON CTA

You'd think the combination of a signed opt-out form and an emphatic ruling from the U.S. Supreme Court banning mandatory dues and fees for public employees would be enough to get a person out of their union.



Bethany Mendez certainly did.

A longtime California school teacher, Mendez wasted little time after last summer's landmark decision in *Janus v. AFSCME* informing the California Teachers Association she wanted out. But the union declined her request, arguing she couldn't leave until CTA's collective bargaining agreement with her school district had expired — a clear violation of both the wording and intent of *Janus*.

Instead of backing down, she asked the Freedom Foundation for help. Bethany Mendez is the lead plaintiff in a lawsuit making national headlines, *Mendez v. CTA*.

"I, for one, value my freedom, that's why I'm taking a stand for my, and any individual's, right to opt out of their union...No individual should be compelled to pay money to a union whose dues impose a negative financial burden."



JANUS RULING FALLOUT: WASHINGTON EMPLOYEES FILE SUIT TO 'ESCAPE' UNION

Aug. 3, 2018

The **Freedom Foundation**, the conservative Washington-based think tank that filed the suit on behalf of the employees...



FREEDOM FOUNDATION LAWYERS FILE ANOTHER LAWSUIT SEEKING DUES ON BEHALF OF DEFECTING OREGON UNION MEMBERS

Nov. 24, 2018

The class-action lawsuit, filed Nov. 20 in U.S. District Court in Portland, is the second filed against Oregon unions by lawyers from the Olympia, Wash. based **Freedom Foundation**

The Seattle Times

SEIU STATE COUNCIL TO PAY \$128,000 AFTER CAMPAIGN-FINANCE SUIT

Feb. 19, 2019

Tuesday's settlement is the latest exchange of blows between labor unions — big Democratic campaign donors in Washington — and the right-leaning **Freedom Foundation**, which filed the complaint...