

60 CASES AND COUNTING LEGAL ACTION UPDATE



LEGAL WARRIOR SPOTLIGHT

JAMES ABERNATHY: FIGHTING FOR FREEDOM

When the U.S. Supreme Court in 2018 handed down its landmark ruling in *Janus v. AFSCME*, Freedom Foundation Senior Litigation Counsel James Abernathy immediately recognized one of the provisions it included.

Having by that time spent several years watching Washington's government employee unions try every dirty trick imaginable to avoid compliance with the court's 2014 ruling in *Harris v. Quinn* that allowed home-based caregivers to opt out of union dues and fees, Abernathy and others on the legal team drafted an amicus brief for *Janus* that urged the justices to include language in their forthcoming ruling that would make it easier to enforce.

Justice Samuel Alito, writing for the majority, did just that. In fact, his affirmation that government workers who choose to voluntarily pay dues anyway are, by definition, waiving their rights not to was lifted almost verbatim from the Freedom Foundation brief.

Abernathy recognized immediately this created an opening for a lawsuit challenging the validity of every union membership card unless its signer was fully advised beforehand of his or her rights. *Belgau v. Inslee* was the first lawsuit in the nation to make this argument, and the Freedom Foundation has since filed several others in Oregon and California making similar claims.

Abernathy, who holds a master's degree from Fuller Theological Seminary in Pasadena, Calif., and a law degree from the Regent University School of Law in Virginia Beach, Va., was the first attorney hired by the Freedom Foundation after Tom McCabe became its CEO in 2013 and focused the organization's activities squarely on curbing the abuses of government employee unions.

Editor's Note: Abernathy last month argued this case before the U.S. Court of Appeals for the Ninth Circuit.



KEY CASES

Suing in federal court on behalf of individual employees, to force unions to respect the 1st Amendment rights recognized in *Janus*

Washington

Wagner v. UW, SEIU 925
Harobin, Reed v. ATU 758

Oregon

Yates v. AFT Local 4671

California

Marsh v. AFSCME 3299
CLSEA (maintenance of membership in lifeguards' CBA)

Investigating campaign finance violations and enforcing the law against special interests

Washington

Freedom Foundation v. Washington State PDC, SEIU PEAF
Freedom Foundation v. Teamsters Local 117

Fighting to make our voice heard through canvassing & outreach efforts

Washington

Freedom Foundation v. Department of Labor & Industries
WFSE v. Freedom Foundation, State of Washington

Oregon

Freedom Foundation v. State of Oregon

Defending workers from union forgery

Washington

Sharrie Yates v. WFSE Council 28
Cindy Ochoa v. SEIU 775
Sigifredo Araujo v. SEIU 775

Oregon

Christopher Zielinski v. SEIU 503

California

Maria Quezambra v. UDW AFSCME Local 3930

LEGAL TEAM

Quarterly Report



Ten Attorneys & Four Paralegals

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

With over **60 ongoing legal cases**, we are defending workers and exposing the illegal actions of big government unions

107 victories against the unions, resulting in over **\$570,000** in settlements and fees unions have been forced to pay

Union legal fees spent fighting Freedom Foundation
\$8.7 Million and counting



FEATURED CASE

CALIFORNIA LIFEGUARDS 'STOKED' TO HAVE FREEDOM FOUNDATION ON THEIR SIDE

Perhaps no case Freedom Foundation has handled in recent years better defines what we do and why we do it than the lawsuit we filed in January on behalf of two dozen California lifeguards.

It's got everything:

- real people who should have never been unionized in the first place;
- real people who paid their dues faithfully but received no services, no help from their union;
- real people who were treated unfairly;
- real people now being helped by the Freedom Foundation's California team when no one else would stand up to their union oppressors; and,
- real people who, thanks to the Freedom Foundation, will one day be reimbursed with interest for the back wages the union stole from them.

Best of all, it isn't the Freedom Foundation making these charges. It isn't even an isolated rank-and-file member.

Brad Rollins and Jon Hernandez, leaders within the San Clemente State Lifeguards Association, had been pushing California State Law Enforcement Association (CSLEA) — parent union of the smaller San Clemente branch — for years to advocate for paid training and other basic benefits, but the union couldn't be bothered to actually provide service in return for the dues money it was deducting from thousands of paychecks.

Fed up, the pair orchestrated a mass opt-out last summer, eventually submitting signed opt-out forms on behalf of 130 disgruntled fellow lifeguards. CSLEA, however, refused to



honor them, citing a California state law that prohibits opt-outs while a union's collective bargaining agreement with the state agency that employs its workers remains in force.

In the case of the lifeguards, CSLEA's new contract with the California State Department of Parks and Recreation isn't due to expire until 2023, which means all these lifeguards would be forced to pay dues for four more years.

Once the Freedom Foundation got involved, CSLEA dropped its objections and freed 100 of the lifeguards immediately. But because the union claims to have a valid membership for the rest, it intends to keep deducting dues.

That's why we filed a lawsuit on behalf of the lifeguards' — and we're looking forward to prevailing.

"We couldn't be more stoked to have the Freedom Foundation help us out," said lifeguard Scott Schneringer.

Nor could we.



Scott Schneringer, CA state lifeguard, thanks the Freedom Foundation during a recent press conference announcing their lawsuit against CA State Law Enforcement Association.

FEATURED LEGAL VICTORY

FREEDOM FOUNDATION WINS PUBLIC RECORDS CASE

Last October, the Washington State Supreme Court ruled 5-4 in favor of the Freedom Foundation in *WPEA v. Freedom Foundation*, holding that public employees' names and dates of birth are subject to disclosure under the state Public Records Act (PRA).

The case stems from a series of requests for public records the Freedom Foundation submitted to various state agencies in 2016, seeking the names, birth dates and work email addresses of union-represented public employees. The Foundation sought the lists to help it contact union-represented public employees about their right to refrain from or resign union membership.

A coalition of several labor unions representing public employees filed suit in state court to block the agencies from providing the information to the Freedom Foundation — falsely claiming this would violate public employees' privacy.

A Thurston County Superior Court judge sided with the Freedom Foundation. However, the Court of Appeals reversed the trial court, and the Freedom Foundation appealed to the Washington Supreme Court, which heard the case in June 2018.

The Court's ruling was the second victory for the Freedom Foundation in as many months before the Washington Supreme Court. In September, the Court ruled 9-0 that the University of Washington had to disclose to the Freedom Foundation emails related to union organizing that had been created, sent and stored using university email accounts, computers and servers.

The Seattle Times

WASHINGTON SUPREME COURT SAYS PUBLIC EMPLOYEE BIRTH DATES ARE PUBLIC RECORDS

Joseph O'Sullivan — October 24, 2019

In a statement, Brian Minnich, executive vice president of the Freedom Foundation, called the ruling a "great victory" for his organization and one that "upholds Washington's strong tradition of open government."

PROFILE IN COURAGE



MARIA QUEZAMBRA

Maria Quezambra is a single mother who became a homecare provider for her disabled daughter in 2012. Shortly thereafter, the state of California automatically began deducting union dues from her paycheck.

Unbeknownst to Maria, in the summer of 2014 the Supreme Court rendered a decision in *Harris v. Quinn*, that made it illegal to automatically take union money from homecare workers' wages. The state initially stopped deducting dues from Maria, but resumed doing so in September 2014 and continued until February of 2019, when Maria learned, for the first time, that she wasn't required to give the union any of her hard-earned money.

Maria immediately contacted the union to stop dues deductions, but she didn't stop there. She had no recollection of ever signing an authorization to allow the union to deduct dues in the first place, so she pressed, for months, to see the card that supposedly did so. The union finally admitted she had never authorized any deductions, and when Maria saw the card it had on file, it was missing information, contained clearly erroneous information and had a forged signature.

Having already fought the union for months, Maria knew she needed more help and called the Freedom Foundation. The union has already admitted Maria never authorized the deduction of dues, but rather than doing the right thing and compensating Maria for the violation of her constitutional rights, the union has moved to dismiss Maria's case.

Without Maria's tenacity and courage, this gross union abuse of power would continue to go unchecked. The Freedom Foundation is proud to stand with Maria to right this wrong.

THE

NATIONAL LAW REVIEW

DISCLOSURE OF STATE EMPLOYEES' BIRTH DATES NOT PROTECTED PER WASHINGTON SUPREME COURT

Jackson Lewis — November 13, 2019

In 2016, the Freedom Foundation sent public records access requests to several state agencies seeking disclosure of records for union-represented employees, including their full names, associated birth dates, and agency work e-mail addresses.