



# Supreme Court Rules Unionization Schemes Involving Home-Based Care Providers Are Illegal

**Mackinac Center represented workers similar to those in Illinois who were forced to pay union dues simply because they got state money**

By Manny Lopez and Tom Gantert  
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The United States Supreme Court said today that workers who indirectly receive state funds for taking care of the disabled or elderly cannot be forced to pay union dues.

The Justices ruled 5-4 in favor of an Illinois mom and a group of Illinois personal care assistants who said their First Amendment rights of free speech and free association had been violated by a forced unionization.

The case, *Harris v. Quinn*, was similar to a scheme in Michigan in which the Service Employees International Union took more than \$34 million from the elderly and disabled who received Medicaid money from the state.

In arguing for the majority, Justice Samuel Alito wrote: "This case presents the question whether the First Amendment permits a State to compel personal care providers to subsidize speech on matters of public concern by a union that they do not wish to join or support. We hold that it does not, and we therefore reverse the judgment of the Court of Appeals."

The case originated in Illinois in 2010 when Pamela Harris and seven other personal care providers (home-based caregivers) who provided in-home assistance to the disabled or elderly and received subsidies from Medicaid for payment challenged a forced unionization scheme in their state. Like in Michigan, the unions involved in Illinois took a cut of the Medicaid money being sent to the patients.

Harris and the others who filed the case were represented by the National Right To Work Legal Defense Foundation.

The Mackinac Center for Public Policy along with the Cato Institute and the National Federation of Independent Business filed an amicus brief in January 2012 asking the Supreme Court to hear the *Harris v. Quinn* case.

The Mackinac Center in November then filed a separate amicus brief with the Supreme Court that discussed the 1977 *Abood v. Detroit Board of Education* decision that said union shops were legal in the public sector.

"As a matter of Constitutional law, these kinds of things can't happen again in Michigan or anywhere in the country," said Patrick Wright, vice president of legal affairs for the Mackinac Center. "And it means that the 'dues skim' that the SEIU set up in Michigan was unconstitutional."

The forced unionization of home-based caregivers has occurred across the country. In Michigan, the SEIU Healthcare Michigan orchestrated a scheme in 2005 that locked more than 40,000 workers into the union. Those workers were largely taking care of family and friends and most didn't even vote in the mail-in unionization election.

The scheme finally was disbanded last year. The SEIU, however, went to great lengths to try to keep the skim alive. It relied on reticence from the Legislature to act and had some cooperation from Republicans in leadership positions to delay action. The SEIU also tried to get its scheme locked into the Michigan Constitution. Proposal 4 on last November's ballot would have done just that, but voters defeated it by 14 percentage points.

Earlier this year, the SEIU was fined nearly \$200,000 for concealing that it bankrolled the ballot proposal.

Before the decision, the Heritage Institute's Andrew Grossman said the problem with unionizing home-based caregivers is considering they are state employees.

"... the public 'employees' at issue are not hired or fired by the state, are not supervised by the state, and do not work in state facilities," Grossman wrote. "Attempts by Illinois and other states to claim home-care workers as their own employees for collective bargaining purposes are a pretext unsupported by any legitimate state interest and should be rejected as violating dissenting workers' First Amendment rights."

The Supreme Court agreed.