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Who's Behind the Janus Lawsuit?

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A look at the right-wing foundations and individuals funding the case—which the Supreme Court hears today—that could weaken America's unions.

Today, the U.S. Supreme Court will hear argument in *Janus v. AFSCME Council 31*. The case will likely have the most significant impact on workers' freedom to organize and bargain collectively since our nation's basic labor law was radically amended by the Taft-Hartley Act in 1947. Unlike the political battle surrounding the passage of that legislation, this fight is taking place largely out of the public eye and with little opportunity for public debate. Instead, a small group of foundations with ties to the most powerful corporate lobbies have financed litigation attacking public-sector unions. These organizations operate with little public scrutiny, enabling wealthy interests to exert unprecedented private influence over matters of public policy, advancing an agenda that weakens the bargaining power of working people and shifts an ever-greater share of economic gains to corporate players and the wealthy elite.

Collective bargaining helps to create a fairer economy, ensuring that gains are shared broadly across the populace. Nearly half of the workers covered by a collective-bargaining agreement are public-sector workers. The plaintiffs in *Janus* are challenging public-sector unions' ability to collect fair share fees, which cover the costs the union incurs representing all workers covered by a collective-bargaining agreement—whether or not a worker chooses to join the union. If the wealthy interest groups behind *Janus* have their way, unions representing public-sector workers could be prohibited from collecting these fees, forcing them to operate with fewer resources.

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The erosion of collective bargaining is at the core of America's wage stagnation and rising inequality. As union membership has fallen over the last few decades, the share of income going to the top 10 percent has steadily increased. When union membership was at its peak (33.4 percent in 1945) the share of income going to the top 10 percent was only 32.6 percent. In 2015, union membership was 11.1 percent, while the share of income going to the top 10 percent was 47.8 percent—the largest share going to the top 10 percent since 1917.

Janus is only the most recent challenge to public-sector unions' ability to collect fees for the services they provide. In the last five years, the Supreme Court has heard two other cases on this issue—but neither case produced the plaintiffs' desired result. Litigating a case all the way to the United States Supreme Court is expensive: attorneys' fees, court costs, and trial expenses add up.

It is only with the financial backing of a dedicated group of foundations with deep ties to corporate lobbies that these cases have repeatedly made it to the Supreme Court.

Organizations litigating fair share fees and their donor foundations

The list below describes the main legal foundations involved in the Supreme Court litigation challenging fair share fees. In some instances, these foundations have participated in more than one case.

National Right to Work Legal Defense Foundation (NRTWLDF) | *Represented the plaintiffs in Harris v. Quinn, which was argued before the U.S. Supreme Court in January 2014*

Plaintiffs backed by the National Right to Work Legal Defense Foundation argued that fair share fee arrangements violated the Constitution. The NRTWLDF is the 501(c)(3) arm of the National Right to Work Committee (NRTWC), a 501(c)(4) organization. The National Right to Work Committee is financed by business and conservative interests that seek to undercut private-sector unions by lobbying states to pass laws that ban any requirements that workers pay fair share fees. NRTWLDF has received funding from many foundations including Donors Trust and Donors Capital Fund, the Lynde and Harry Bradley Foundation, the Ed Uihlein Family Foundation, Dunn's Foundation for the Advancement of Right Thinking, and the Walton Family Foundation.

Center for Individual Rights (CIR) | *Represented the plaintiffs in Friedrichs v. California Teachers Association, which was argued before the U.S. Supreme Court in January 2016*

The CIR-backed plaintiffs argued that a public-sector union's ability to collect fair share fees should be unconstitutional. This case yielded a 4-to-4 stalemated decision because of Justice Antonin Scalia's death halfway through the 2016 Supreme Court term. In the past, CIR was engaged primarily in litigation to limit environmental and health and safety regulations. As the organization's budget has grown, it has become involved in litigation aimed at limiting workers' rights. CIR has received funding from Dunn's Foundation for the Advancement of Right Thinking, the Sarah Scaife Foundation, and the John M. Olin Foundation. Most notably, CIR has received financial support from Donors Trust and Donors Capital Fund, which are donor-advised funds backed by Charles and David Koch (the Koch brothers), and from the Lynde and Harry Bradley Foundation.

Liberty Justice Center and NRTWLDF | *Represented the plaintiffs in Janus v. AFSCME, which will be argued before the U.S. Supreme Court on February 26, 2018*

In this case, the plaintiffs are making the same anti-union argument that was put on hold by Scalia's death in *Friedrichs*: that public-sector unions should not be able to cover the cost of representing and negotiating on behalf of nonmembers who benefit from the union's representation. The Liberty Justice Center (LJC) is the legal arm of an Illinois-based conservative think tank called the Illinois Policy Institute (IPI). A review of LJC and IPI's 990s provides a limited view of their financial profile, but it is clear that they survive off of the same core group of corporate-backed organizations that contribute to many political and legal fights against unions. Donors Trust, the Lynde and Harry Bradley Foundation, the Ed Uihlein Family Foundation, Dunn's Foundation for the Advancement of Right Thinking, and the Charles Koch Institute have supported the Illinois Policy Institute and Liberty Justice Center.

A closer look at the donor organizations supporting the anti-union litigants in fair-share-fee cases

The National Right to Work Legal Defense Foundation, Center for Individual Rights, and Liberty Justice Center are separate nonprofit organizations, but they share many of the same donors. Below is a profile of a few of these organizations' major donors, based on data found in their 990 filings.

Donors Trust/Donors Capital Fund | Donors Trust, headquartered in Virginia, is a tax-exempt charity founded in 1999 and is connected to Donors Capital Fund. Donors Trust is a donor-advised fund, which means that contributors to the fund can recommend how the money is allocated, but do not have final say. In return, contributors receive a bigger tax write-off than they would by donating money to a family foundation, and they preserve their anonymity. While most of the contributors to Donors Trust are unknown, Charles G. Koch, the Richard and Helen DeVos Foundation based in Grand Rapids, Michigan, and the Lynde and Harry Bradley Foundation based in Milwaukee have reported contributions. Donors Trust contributes tens of millions of dollars annually to conservative think tanks and advocacy groups. These include the Heritage Foundation, the Federalist Society, and the National Rifle Association's Freedom Action Fund, all in Washington, D.C.

Sarah Scaife Foundation | The Sarah Scaife Foundation is the largest of three foundations that make up the Pittsburgh-based Scaife family foundations. Under the direction of the late Richard Mellon Scaife, heir to the fortune of Andrew Mellon, the Scaife foundations in the late 1960s started to direct the majority of their assets toward conservative causes. Scaife helped fund early operations of the Heritage Foundation and the Stanford, California-based and Washington, D.C.-based Hoover Institution. The Sarah Scaife Foundation continues to support the major conservative think tanks. Other grantees of the Sarah Scaife Foundation include FreedomWorks, the tea party group backed by the circle of like-minded mega-donors that make up the Koch network, the Competitive Enterprise Institute in Washington, D.C., and the Commonwealth Foundation for Public Policy Alternatives, a Pennsylvania-based think tank associated with the American Legislative Exchange Council (ALEC) and the State Policy Network.

Lynde and Harry Bradley Foundation | The Lynde and Harry Bradley Foundation was founded in 1942, and became a major organization with a national impact following the 1985 acquisition of the Allen-Bradley company by Rockwell International, a Fortune 500 manufacturing company. This inflow of cash, along with the hiring of Michael Joyce of the conservative John M. Olin Foundation, turned Bradley from a locally focused philanthropic organization in Milwaukee to the nationally focused foundation it is today, granting around \$40 million annually. Since 2011, the majority of grants from the Bradley Foundation have gone to conservative groups, conservative think tanks such as the American Enterprise Institute and The Heritage Foundation, and religious freedom groups.

Ed Uihlein Family Foundation | The Ed Uihlein Family Foundation is run by businessman Richard Uihlein, the son of Ed (Edgar) Uihlien. Richard Uihlein is an influential player in Illinois and Wisconsin state politics. He donated \$2.6 million to Illinois Governor Bruce Rauner's 2014 campaign, and another \$2.5 million to the Unintimidated super PAC that backed Wisconsin Governor Scott Walker's presidential campaign. The foundation also has given significant sums of money to the Illinois Policy Institute, whose legal arm, the Liberty Justice Center, is the main representative of the plaintiffs in *Janus*. The Uihlein family is also well

connected to the Bradley family and the Bradley Foundation. David Uihlein Jr. served as vice chairman of the Lynde and Harry Bradley Foundation, and his father served on the board of the Allen-Bradley company.

Dunn's Foundation for the Advancement of Right Thinking | The foundation was founded by William A. Dunn in 1994 to advocate for and fund libertarian causes. William A. Dunn is the founder of Dunn Capital Management in Florida, which has over \$1 billion in assets under management, and seems to be the main source of the foundation's assets. The Dunns have given millions to the Institute for Justice, the Pacific Legal Foundation, and the Landmark Legal Foundation. Since 2000, the foundation has also given well over \$60 million to conservative groups such as the Competitive Enterprise Institute, the Cato Institute, the Mackinac Center for Public Policy, and the Reason Foundation.

The Court's ruling in *Janus* will have far-reaching implications. It will determine how effective unions can be in the future, but the case is about more than that. This case is about whether a small group of wealthy donors and corporations is able to rewrite some of the nation's most fundamental rules to serve their own interests at the expense of the public good. Public-sector workers provide critical services on which every community depends. These workers care for our children and aging parents, keep us safe, and keep our streets clean. Attacking their wages and benefits will not only hurt them but the local communities where these services matter most. If the Supreme Court is persuaded by these powerful corporate interests to prohibit unions from collecting fees from the workers they are required by law to represent, working people and the communities they serve will suffer the consequences.