

# THE PRESS-ENTERPRISE

## Editorial: Key union case should wait for full court

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The death of Supreme Court Justice Antonin Scalia continues to ripple across the legal and political worlds. The court's eight members are expected to produce 4-4 deadlocks on several important cases. For that reason, Republicans want President Obama to hold off on nominating a replacement so that the next president, who could be a Republican, could do so.

Democrats seek a replacement now who, if confirmed, would be more likely to be an activist on the bench in the mold of confirmed Obama nominees Sonia Sotomayor and Elena Kagan. The court still is deciding important cases on abortion, gun rights, free speech and Obamacare.

But for Californians, probably the most important case is *Friedrichs v. California Teachers Association*, in which the lead plaintiff is Orange County teacher Rebecca Friedrichs. She and the nine other teacher-plaintiffs contend the CTA and other public-employee unions should not force employees to pay union fees for collective bargaining. A defeat for the unions greatly would reduce their power in the states, such as California, where they are the dominant force in politics. (The case would not affect private-sector union members.)

Any preliminary court votes or drafts of opinions by Mr. Scalia now are void, Ilya Shapiro told us; he's a senior fellow in constitutional studies at the libertarian Cato Institute. The Friedrichs case "is the biggest loss from my perspective," he said. "Other big cases either affirm correct lower court rulings 4-4 or Scalia would've been in dissent, anyway. But we're unlikely to know till June," when the court hands down its final cases for the current term.

In Friedrichs' case, the Supreme Court could decide to delay a decision until the next court term, after the next president offers a replacement for Mr. Scalia. But a 4-4 decision by June would let stand the ruling by the 9th U.S. Circuit Court of Appeals, which sided with the CTA.

However, even that wouldn't be the end of the case. On Wednesday the Center for Individual Rights, which is representing Ms. Friedrichs and the other teachers, released a statement that promised it would "file a motion for rehearing" by the full court if a 4-4 decision is handed down.

We have backed Ms. Friedrichs and hope the court puts off a decision until the voters have their say on what sort of president they want nominating new justices.