

THE ZAPPIA LAW FIRM

A PROFESSIONAL CORPORATION

– Labor & Employment Law –

SPECIAL UPDATE

PUBLIC EMPLOYERS

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The U.S. Supreme Court Is Taking Up A Case That Could Gut Public Sector Unions in the US.

The U.S. Supreme Court heard oral arguments on Monday in a case over the question of whether public sector employees should be required to pay union fees, even if they are non-members. The court's decision could undercut the power and long-term survival of public sector unions in more than two dozen states, including California.

The case, *Friedrichs v. California Teachers Association*, was initiated by 10 non-union California public school teachers and the Christian Educators Association International against the California Teachers Association, a powerful union with 325,000 members. The plaintiff/teachers argue that they should not be required to pay fees to a union if they choose to not be a part of it, even though they are still represented by the union.

A ruling in favor of the California teachers would apply in the 25 US states (including California) that do not already have what is known as "right-to-work" laws. "Right-to-work" laws prohibit workers in a unionized industry from being forced to pay fees to that union, unless they choose to join the union. Such a ruling would be a blow to organized labor in California, because payments from non-union members that go toward collective bargaining – known as "agency fees" – are a substantial source of funding for unions.

The plaintiff/teachers argue that California's current law violates non-union workers' First Amendment free-speech rights by requiring them to pay fees that support a political cause. The teachers are asking the Supreme Court justices to overturn the 1977 Supreme Court ruling in *Abood v. Detroit Board of Education* that allows public-sector unions to collect fees from all employees, regardless of whether those employees choose to be members of the union or not, as long as the money is not spent on political activities.

The unions argue that non-union members should be required to pay "agency fees" in order to avoid the "free-rider" problem of giving workers the benefits of the union without having to pay for them. The unions further argue (1) collective bargaining is not political activity; and (2) state law requires the union to represent all workers, regardless of whether they choose to be members or not.

A ruling in the case is due by the end of June. We will keep you apprised.