



# **Friedrichs v. The California Teachers' Association (CTA)**

By: Kelly Erinakes  
Coventry Teachers' Alliance

# CONTENTS

**1 BACKGROUND**

---

**2 BOTH SIDES OF THE CASE**

---

**3 WHOSE FUNDING THIS & HOW DID IT GET TO THE UNITED STATES SUPREME COURT?**

---

**4 WHAT DOES THIS MEAN GOING FORWARD?**

---



# BACKGROUND

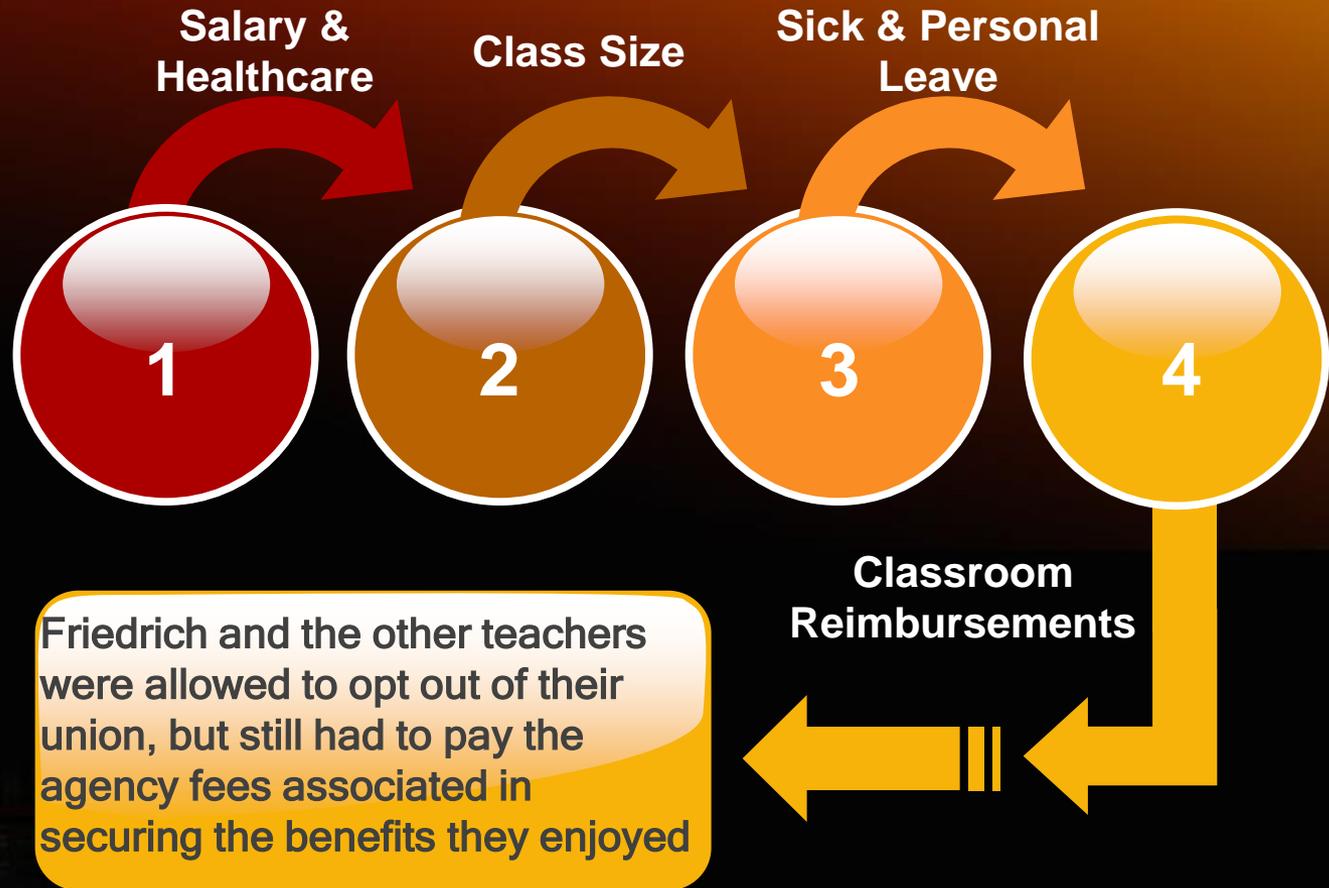
Rebecca Friedrichs along with nine other California school teachers opted out of their union's membership and brought suit against the CTA in a bid to relieve themselves of having to pay "agency fees" for the services the union is required by law to provide them, including contract negotiations and grievance adjudication.



agency fee – a fee charged to non-union employees at a workplace that has union representation. The fee is intended to compensate the union for benefits which are collectively bargained for that the non-union employee will receive, such as salary and benefits. These are not full union dues, as they account for eliminating political action deductions.



# Background Continued



# Plaintiff's Side

Forcing teachers to pay agency fees violates their 1<sup>st</sup> Amendment right to free speech as unions engage in political activities that members may not agree with.

- Requiring teachers to pay agency fees assumes that collective bargaining is non political, but bargaining with local governments is inherently political:
- Whether unions are negotiating class size or pressing local governments to spend tax dollars on classroom reimbursements rather than on new trash vehicles, the union's negotiating positions embody political choices that are often controversial.
- "It is difficult to imagine more politically charged issues than how much money strapped local governments should devote to public employees, or what public schools should do to best educate children."

- California Teachers' petition to the Courts



# Defendant's Side

The 1<sup>st</sup> Amendment argument is a ruse. Non members already pay agency fees which exclude costs of political action activities. Collective bargaining is different and these teachers are simply seeking to reap the benefits of such bargaining without paying their fair share of the costs.

- “Negotiations addressing routine employment matters - procedures for taking leave, for example, or the conditions of faculty lounges, or the method for processing employee grievances - are not “political” in the sense the Supreme Court has used the word in other 1<sup>st</sup> Amendment settings.  
- Kamala D. Harris (California Attorney General)
- “Mandatory agency fees ensure that all employees in a bargaining unit pay a fair share of the cost of the representation. It prevents the unfairness and conflict that could arise were only part of the workforce to support representation activities that, by law, must advance and protect the interests of every employee.” - Kamala D. Harris



# Who's Funding This Attack on Unions?

Center for Individual Rights

Lynde & Harry Bradley Foundation

Charles & David Koch

Christian Educators Association



Cato Institute

National Right to Work Legal Defense Fund



**Center for Individual Rights** - Its list of foundation and donor-advised funds reads like the who's who of right's organized opposition to labor:

- **Lynde & Harry Bradley Foundation** - Is a conservative D.C. nonprofit law firm with an approximate \$800 billion endowment.
- **Koch Brothers** - Billionaires who are the principals in Koch Industries , the 2<sup>nd</sup> largest privately held corporation in the U.S. They are longtime supporters of anti-labor efforts. The Koch brothers were the backing behind Wisconsin Governor, Scot Walker, and his success of “right to work” legislation.
- **Christian Education Association** - Far right group whose website accuses public schools and the NEA of promoting “the homosexual agenda.” One of their go to authors for new teachers is Carl Sommer, a former N.Y. high school teacher known for his opposition to school desegregation and sex education.



# Travel of the Case:

The right of unions to collect agency fees or “fair share dues” was settled by the court’s unanimous decision in 1977’s *Abood v. Detroit Board of Education*. That precedent was set under a liberal court while now the Supreme Court has a conservative majority.

The Court revisited the issue in 2014 in *Harris v. Quinn* when it stopped just short of overruling its foundational 1977 decision. In that case Justice Samuel Alito, who penned the majority opinion, devoted half of his opinion to considering the constitutionality of public-sector union’s right to collect “fair share” fees from those who have opted out of union membership. This opinion practically invited anti-union parties to bring another case before the Court.



In bringing the Friedrich's case before the lower courts, the Center for Individual Rights (CIR) demonstrated a deliberate litigation strategy. The CIR asked the trial court and the Ninth Circuit Court of appeals to decide against its clients, without trial or oral arguments, so as to send the case on to the Supreme Court as quickly as possible.

Union advocates were seething at such deliberate disregard for the process; "You're setting up this false scenario, this false conflict in order to get a Supreme Court ruling. The CIR didn't even make an argument (in the lower court filings). They asked for the court to rule for the defendant, and then got rewarded for it."

- Frank Deale (Professor at the CUNY School of Law)



# Current Case Status

Oral arguments in *Friedrich v. California Teachers' Association* began on January 11, 2016. A decision is expected before the Court's term ends in June.

Should the Friedrichs plaintiffs succeed in all their claims before the high court, they could cause public-sector unions to have significant drops in membership, dividing their union and leading to its demise.

If the plaintiffs do not prevail or yield a limited outcome, the anti-labor right already has other anti-union cases in the works.



Last month a federal district judge ruled against the plaintiff in *Bain v California Teachers' Association*, a suit challenging unions' political activity brought by the anti-union group Student First, which is helmed by charter school proponent Michelle Rhee. If the Supreme Court does not overturn its 1977 decision in *Abood*, it's clear that the Koch brothers and their allies will run yet another suit through the courts in their decades-long effort to destroy unions.

The next U.S. President may get to appoint as many as three Supreme Court Justices . The fate of labor may well rest with those choices....

What can/will we as the Coventry Teachers' Alliance do to preserve our union and our rights?

