

MICHAEL A. MOSES, ATTORNEY
MOSES LAW OFFICES, L.L.C.

533 S. 3rd Street
Columbus, Ohio 43215-5720

(614) 224-7294

Fax (614) 224-7295

michaelmoses@moseslawllc.com

www.michaelmosesattorney.com

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The United States Supreme Court's imminent ruling in the case of *Janus v. AFSCME*, is important to all public employees whether you are a union member or not.

The dispute before the Supreme Court today stems from the \$45 that is deducted from the paycheck of Mark Janus (an Illinois public employee) each month to go to the local branch of the union that represents him. A 40-year old Supreme Court precedent, *Abood v. Detroit Board of Education*, allowed employees who chose not to belong to unions to pay only the "fair share" costs of negotiating contracts and processing grievances. Mr. Janus and in *Janus v. AFSCME* urges the court to prohibit all mandatory payroll deductions by unions for any fees, arguing that even the fee for representation of employees in wage negotiations and grievance processing violate the First Amendment.

If you are a union member, you need to know that a ruling by the Supreme Court allowing Mr. Janus to pay nothing to the union for representation services could have the following consequences:

- Public employees could invoke First Amendment rights to refrain from paying any fees or dues to their union.
- Unions might still have a duty to represent those employees who refrain from paying union dues.
- The ability of unions to represent employees would be reduced to pay for grievance processing and collective bargaining negotiations—meaning they would have less bargaining power to get good contracts and save employees' jobs if disciplined unfairly.

If the Court decides against unions and in Mr. Janus' favor and you are a "fair share fee" payer because you choose not to belong to a union, you should consider the following:

- You may invoke First Amendment rights to refrain from paying any fees or dues to the union representing employees at your workplace.
- Ask your union if they will still represent you if a dispute arises under the contract negotiated by the union, or if you are disciplined.
- Ask your employer if you withdraw from union membership, whether you still have the right to go to arbitration in the event of discipline or other dispute with the employer or

whether you have other appeals to outside bodies, such as the State Personnel Board of Review or your local civil service commission.

- Ask your employer if you have the right to hire an attorney to handle your dispute or whether you are entitled to represent yourself if the employer and/or the union take the position you are not entitled to representation by the union.
- Ask if you or your co-workers have the right to strike¹ at any time as an exercise of your First Amendment right to express your opinion.

The Supreme Court is unlikely to resolve all questions about public sector unions, and *Janus*, even if decided against public sector unions, will have to be interpreted and clarified in future lawsuits, and, possibly, in amendments to state laws. Public employees will not be without legal remedies, if *Janus* succeeds in banning all union fees, however, it will drastically change your relationship with your employer. For example, employees who refrain from paying union dues may have to hire a private attorney for representation the union used to provide.

In any event, unions and collective action will continue in some form or fashion, as the teachers' strikes in West Virginia, Kentucky, Oklahoma and Arizona show, and public employees will remain an active force in representing each other's interests.

¹ Under Ohio Revised Code Sec. 4117.03 (A) Public employees currently have the right to: (1) Form, join, assist, or participate in, or refrain from forming, joining, assisting, or participating in, except as otherwise provided in Chapter 4117. of the Revised Code, any employee organization of their own choosing; (2) Engage in other concerted activities for the purpose of collective bargaining or other mutual aid and protection; (3) Representation by an employee organization; (4) Bargain collectively with their public employers to determine wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement, and enter into collective bargaining agreements; (5) Present grievances and have them adjusted, without the intervention of the bargaining representative, as long as the adjustment is not inconsistent with the terms of the collective bargaining agreement then in effect and as long as the bargaining representatives have the opportunity to be present at the adjustment....(C) Except as provided in division (D) of this section, nothing in Chapter 4117. of the Revised Code prohibits public employers from electing to engage in collective bargaining, to meet and confer, to hold discussions, or to engage in any other form of collective negotiations with public employees who are not subject to Chapter 4117. of the Revised Code pursuant to division (C) of section [4117.01](#) of the Revised Code.