On February 26, 2018, the United States Supreme Court will hear arguments about “Janus versus AFSC-ME, Council 31.” This case is about whether public employee unions should operate under a right to work-for less regime.

An Illinois public employee named Mark Janus wants the benefits of his union contract but doesn’t want to pay any dues at all – nothing. So he’s challenging the right of unions and public sector employers to bargain “union security clauses.” These clauses in bargained contracts require employees to pay a fair share of the costs that their unions incur in representing everyone under the collective agreement. This includes representation at the bargaining table, in the grievance and arbitration process, in advocating for safe and harassment-free work places, and in carrying out other representational duties.

The Janus case seeks to reverse a unanimous decision made by the Supreme Court more than four decades ago. In Abood v. Detroit Board of Education, the Supreme Court ruled that the Michigan statute allowing fair share/agency fees was constitutional. The Supreme Court wrote:

The designation of a union as exclusive representative carries with it great responsibilities. The tasks of negotiating and administering a collective bargaining agreement and representing the interests of employees in settling disputes and processing grievances are continuing and difficult ones. They often entail expenditure of much time and money. . . . [I]n carrying out these duties, the union is obliged “fairly and equitably to represent all employees . . ., union and nonunion” within the relevant unit. A union shop arrangement has been thought to distribute fairly the cost of these activities among those who benefit, and it counteracts the incentive that employees might otherwise have to become “free riders” – to refuse to contribute to the union while obtaining benefits of union representation that necessarily accrue to all employees.

The Supreme Court’s Abood decision balanced the concerns of an employee with the interests of the union in representing all employees. It concluded that requiring an employee to pay a fair share fee “is constitutionally justified by the legislative assessment of the important contribution of the union shop to the system of labor relations established by Congress.” The Court observed that the government’s strong interest in promoting labor stability was advanced by agency-shop provisions.

This fight at the Court has drawn strong interest from all sides of the issue -- nearly seventy briefs have been filed.
The Supreme Court is expected to decide the case by June 30th. We will provide you updates on the decision. In the meantime, if you have questions about the union security provisions in your collective bargaining agreement or about related dues issues, please raise those questions with your Staff Rep who can then discuss these concerns with our USW Legal Department.
