

1. Defending Your Voice: *AEA vs. Horne* intervening in *UFCW v. Brewer*

The Arizona Education Association (AEA) led a coalition of public employee unions in challenging S.B. 1365's limits on payroll deductions for political purposes. Under S.B. 1365, if a union wanted to use payroll deduction for dues, it had to guess in advance how much of its dues would fund "political purposes," but if it were to guess incorrectly, then the union faced a \$10,000 penalty per violation. If this was not bad enough, S.B. 1365 exempted Public Safety Unions from its onerous requirements.

On September 23, 2011, the District Court Judge granted our motion for a preliminary injunction because S.B. 1365 constituted unconstitutional viewpoint discrimination. Since then, the Court has also denied the State's motion to dismiss the complaint. Under the protection of our injunction, the lawsuit is now proceeding towards a final decision on the merits. However, despite this tremendous victory, AEA is still pursuing alternative methods for dues payments, so the Legislature can never again threaten to silence your voice.

2. Defending Your Retirement: *Barnes v. State of Ariz.*

AEA is leading a coalition of public union members challenging S.B. 1614's increase of the employee contribution to the Arizona State Retirement System (ASRS). S.B. 1614 increased the employee contribution from 50 to 53 percent and decreased the employer contribution from 50 to 47 percent of the total cost for the retirement benefit.

Our lawsuit claims that S.B. 1614 violates the Arizona Constitution and contract law for the active participants in ASRS. Basically, the over 200,000 active participants in ASRS accepted employment knowing they would pay for half the cost of their retirement, and S.B. 1614 wrongly changes the terms of those existing employment contracts. Since AEA filed its complaint in Superior Court in July 2011, both AEA and the State have filed Motions for Summary Judgment, and the State has also filed a Motion to Dismiss. The Court will hear oral arguments on all of those Motions on December 15, 2011.

3. Defending "Base Level" Education Funding: *Cave Creek Unified School District v. State of Ariz.*

AEA is part of a coalition of education groups challenging the legislature's willful refusal to increase the "base level" of education funding for inflation, despite the clear intent of the voter-approved Proposition 301. Our lawsuit alleges that the legislature's actions in both the 2010-2011 and the 2011-2012 budgets violate Proposition 301 and the Voter Protection provisions of the Arizona Constitution. On February 11, 2011, Maricopa County Superior Court Judge Kenneth Mangum refused to order the legislature to take inflation into account when funding public education.

We appealed Judge Mangum's Decision to the Arizona Court of Appeals. There, the State is now arguing that voters lack the authority to order the legislature to fund ballot propositions. If the State's argument is successful, then even if the voters pass ballot propositions, the Legislature does not have to expend money to support them. If this argument is successful, then Courts cannot order the Legislature to fund voter enacted ballot propositions.

Because the voter proposition issue was first raised in the *Fogliano* AHCCCS case, we filed an amicus brief in the *Fogliano* case. The Court heard oral argument in the *Fogliano* case on October 13, 2011, but it has not yet issued a decision. In our case, we are still waiting for the Court of Appeals to schedule oral argument.

4. Defending Education Funding: *Rumery v. Martin*:

AEA is part of a coalition challenging House Bill 2014, which allows up to 10% of state trust land proceeds to be used for the administrative costs of running the State Land Department. However, the state trust land sales are constitutionally required to support Arizona public schools.

We won at the trial court and obtained an injunction prohibiting H.B. 2014 from taking effect. However, when the State appealed, the Court of Appeals stayed our injunction, so the State was again allowed to spend trust money on the Land Department's administrative costs. On June 30, 2011, the Court of Appeals lifted that stay, so the Land Department was again prohibited from using trust monies to fund its administrative costs. Unfortunately, that 6-month stay of our injunction cost public education millions of dollars.

On November 10, 2011, the Arizona Court of Appeals affirmed the Superior Court's decision. This means that the State cannot use trust money to fund the Land Department's administrative costs. The Court of Appeals also ordered the State to pay our attorney fees and costs. The State has vowed to appeal to the Arizona Supreme Court.

5. Defending Arizona's Public Education System: *Niehaus vs. Huppenthal*

In 2006, the Legislature enacted two programs that, in part, appropriated state monies to pay the tuition for private schools. AEA and a coalition of education groups challenged this "scholarship program" in *Cain v. Horne*, and in 2009, the Arizona Supreme Court held that the "scholarship program" violated the Arizona Constitution, which *both* mandates Arizona to provide a public education *and* prohibits Arizona from diverting public funds to private schools.

In 2011, to circumvent the *Cain* decision, the Legislature enacted S.B. 1553, which deposits public funds into an account managed by the parents of a child with disabilities, in exchange for the parent removing the child from the public education system. The parents can then use that money to pay for the child's private curriculum, tuition, fees, services, and books.

Even though the parents can choose to distribute the money, S.B. 1553 still unconstitutionally diverts public funds to private schools. Therefore, on September 26, 2011, AEA and a coalition of education groups filed a lawsuit asking to enjoin S.B. 1553. Within 2 days, both the Institute for Justice and the Goldwater Institute intervened in the lawsuit because they believe that the State can fund private education, if they give the public funds to the parents to distribute as they choose.

On November 28, 2011, the parties argued the case on the merits, and we are waiting for the judge's decision.