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**MULTISTATE COALITION URGES U.S. SUPREME COURT TO  
PROTECT WORKERS' ORGANIZING RIGHTS IN KEY LABOR CASE**

***21 States including Hawaii File Amicus Brief in Mark Janus v. AFSCME Council 31, Urging SCOTUS to Follow Precedent That Empowers States to Manage Labor Relations As They Deem Appropriate***

HONOLULU – 21 states, including Hawaii, today filed an amicus brief urging the U.S. Supreme Court to uphold a Seventh Circuit decision protecting “fair share” provisions in public sector collective bargaining agreements.

The brief addresses *Mark Janus v. AFSCME Council 31*, a case that will be heard on February 26, 2018, that seeks to overrule precedent settled in the 1977 Supreme Court case *Abood v. Detroit Board of Education*, which states have relied upon for decades to negotiate labor contracts and ensure labor peace and efficient provision of government services. The brief argues that the Supreme Court should defer to states’ judgment on how best to manage their workforce.

The brief [https://ag.ny.gov/sites/default/files/janus\\_states\\_amicus.pdf](https://ag.ny.gov/sites/default/files/janus_states_amicus.pdf) was led by New York Attorney General Eric Schneiderman and filed by the Attorneys General of New York, Alaska, Connecticut, Delaware, Hawaii, Iowa, Kentucky, Maine, Maryland, Massachusetts, Minnesota, New Jersey, New Mexico, North Carolina, Oregon, Pennsylvania, Rhode Island, Vermont, Virginia, Washington, and the District of Columbia.

The “fair share” provisions in public sector collective bargaining agreements allow a union -- selected by a majority of covered employees to serve as those employees’ exclusive collective-bargaining representative -- to collect a fee from all represented employees, solely to cover the costs of the union’s collective-bargaining related activities. Such fees do not support any political activities in which the union may engage. In *Abood v. Detroit Board of Education*, the Supreme Court held that states may constitutionally mandate such payments as part of a system of exclusive collective bargaining representation, in light of the important government interests in achieving

labor peace and the expenses involved in maintaining the staff expertise necessary to perform collective-bargaining functions.

The plaintiffs seek to undermine the precedent set by *Abood*. The district court entered judgment in favor of defendants on the pleadings and the Seventh Circuit summarily affirmed, holding that *Abood* bars the plaintiffs' claims. The Supreme Court then granted plaintiffs' petition for certiorari.

The brief filed by the Attorneys General argues that public sector "fair share" provisions are consistent with the First Amendment, and that overruling *Abood's* approval of those provisions would disrupt thousands of labor agreements that States have adopted and maintained for decades. All states have a common interest in defending *Abood's* deference to state policy determinations, and in preserving the ability of states to adopt the same tested models of collective bargaining that Congress has permitted for private-sector employees.

"In the decades before *Abood*, many States faced paralyzing public-sector strikes and labor unrest that jeopardized public order and safety. The relative success of state labor-relations systems in preserving public-sector labor peace should not be mistaken for evidence that the leeway afforded by *Abood* is no longer needed. To the contrary, that success is evidence that *Abood* works because it confirms that states and local governments have used the flexibility allowed by *Abood* to adopt policies best tailored to meet their needs in achieving labor peace. That flexibility is no less critical today than when *Abood* was decided. Now, as before, labor peace secures the uninterrupted function of *government itself* and is a necessary precondition for the secure and effective provision of government services," the brief states.

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