

# CASE SUMMARIES

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### *Unions Win in US Supreme Court 4-4 Split, Allows Public Unions to Continue Collecting Agency Fees from Non-Members*

On March 29, 2016, the Supreme Court issued a one-sentence decision in *Friedrichs v. California Teachers Association*: “The judgment is affirmed by an equally divided Court.” *Friedrichs* is the second 4-4 decision of the term, a circumstance brought about by the passing of Justice Antonin Scalia in February.

The plaintiffs in *Friedrichs* sought to overturn a 1977 Supreme Court decision, *Abood v. Detroit Board of Education*, which held that public unions can make non-members pay agency fees. Both the District Court and the Ninth Circuit had dismissed the plaintiffs’ case, finding that the outcome was controlled by *Abood*. Therefore, the plaintiffs’ only chance of changing the law and overturning *Abood* was having the Supreme Court find in their favor. However, with the 4-4 split of the Court, the decision of the Ninth Circuit was affirmed, leaving intact *Abood’s* holding and allowing public unions to continue collecting agency fees from non-members.

Many commentators had believed that Justice Scalia would vote to overturn *Abood*, which would have resulted in a 5-4 decision in the plaintiffs’ favor. Although the plaintiffs were ultimately unsuccessful in overturning *Abood*, given the split in the Court and other recent decisions by the Supreme Court which cast doubt on *Abood’s* continued viability, we can expect that this issue will be before the Court again in the future.

But for now, public unions can continue to charge non-members fees associated with the unions’ representation of public sector workers.