

...Union campaign crushed at Portland Specialty Baking

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door policy was announced, in which workers could tell company president Josh Richardson about their concerns. Some workers got raises.

Meanwhile, the company aggressively curtailed union access to the workers. Not only were union organizers not allowed into the plant to talk to workers, but they were ordered off the property. The plant is located in a corporate industrial park between Sandy Boulevard and I-84. For about a week after the union campaign went public, union organizers would show up to leaflet and talk to workers. But Richardson, the company president, repeatedly confronted them and called the police. On Jan. 22, Gresham police arrested lead organizer Trent Leon-Lierman and booked him on charges of second degree criminal trespass. On arraignment, the Multnomah County District Attorney's office declined to press charges, but Leon-Lierman's arrest was the last time organizers showed up on site — two weeks before the election.

And union efforts to get workers to meet outside the workplace were frustrated by a sudden ramp-up in hours. Workers were ordered to work 60



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— Bakers Local 114 president Terry Lansing

hour weeks. On the day a union meeting was scheduled, some were called in to work an extra shift.

There were other factors contributing to the union loss.

Portland Specialty Baking's workforce is overwhelmingly comprised of immigrants and refugees, divided into pockets of different nationalities and language groups. NLRB election notices, for example, were translated into Arabic, Burmese, Chukese, Khmer, Laotian, Nepalese, Russian, Spanish, and Vietnamese. Within each language group, line foremen tended to be the most senior leaders, and they formed the core of the company's anti-union effort. Leon-Lierman thinks those supervisors may have proved decisive in appealing to workers to give the company a chance to improve.

Lastly, very few of the Portland Specialty Baking workers had any prior experience with

unions before. Wages at other unionized bakeries in the Portland area are approximately double the wages at Portland Specialty Baking, which hover around \$10 an hour.

Franz Bakery's role

Lansing said it's unclear what role, if any, unionized Franz Bakery played in the campaign. Portland Specialty Baking makes pretzels, cakes, donuts, bagels, and muffins, but not under its own label; it's a contract baker making products for Franz, Starbucks, Safeway, Costco and Winco. Portland Specialty Baking uses machines purchased from Franz. And the industrial park where it's located is owned by a holding company that lists current and former Franz executives as principal officers.

Lansing appealed to Franz president Marc Albers to urge Portland Specialty Baking to remain neutral and meet face to face. Albers did get Richardson

to meet with the union. The half-hour-long informal meeting took place Jan. 28 at the union office — between Richardson and his attorney Jackie Damm of Bullard Law, and Lansing and John Price, the Bakers Union's international director of organization.

"It was an honest attempt by us to go forward positively rather than have an adversarial fight," Lansing says of the meeting. "We asked for the company to be neutral and respect workers' desire to be union."

Lansing asked if Richardson would allow a union representative on site so that employees could hear both sides. Richardson said no.

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Richardson's response, Lansing says, was to tell the story of an employee who was grateful to get a job at Portland Specialty Baking after being out of work for years.

Why unions prefer card check

The union reversal at Portland Specialty Baking illustrates the difference between a "card check" process — which unions favor — and a secret ballot union election. Under federal la-

bor law, employers must recognize and bargain with a union if the majority of workers want to be union-represented. Unions can demonstrate that majority support by presenting signed authorization cards from workers, in a process known as card check, but it's up to the employer whether to accept that method or not. Employers who want to fight a union invariably insist on a secret ballot election overseen by the NLRB, because it gives them time to campaign against the union. In short: Portland Specialty Baking could legally have recognized the union based on the cards signed by its workers — and gotten busy negotiating a first contract. Instead it fought an extraordinarily one-sided battle against the union — in that management had nonstop access to workers, while union organizers weren't even allowed on the property.

Despite the loss, Lansing and Leon-Lierman say the union will continue to engage with workers at the plant, and could try again in the future if worker opinion shifts.

"We're certainly not walking away. That wouldn't send a good message, nor would it be the right thing to do," said lead organizer Trent Leon-Lierman.

Richardson declined to return calls from the Labor Press.

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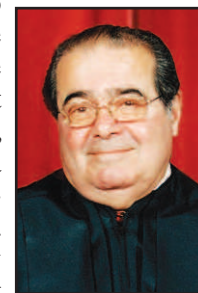
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Justice Scalia's death may mean reprieve for public sector unions

The Friedrichs case looked like it was going to be a 5-4 vote

It would be considered bad form for union leaders to publicly celebrate the death of conservative U.S. Supreme Court Justice Antonin Scalia, but privately, there's a pervasive sense of having dodged a bullet. That bullet, aimed by union foes at the heart of organized labor, was a pending case called *Friedrichs vs. California Teachers Association*. Plaintiffs are asking the Supreme Court to impose so-called "right-to-work" status on all public employees in the United States, arguing that requiring public sector union members to pay dues — even though they benefit from union contracts — would violate the First Amendment.

Based on questions justices asked when the Court heard oral argument in the case Jan. 11, it looked like there was a 5-4 majority in favor of overturning a previous court decision that declared it constitutional for public sector unions to require dues or some equivalent. Currently, under the 1977 *Abood* decision, the question is left up to the states.



Antonin Scalia
1936-2016

Scalia's Feb. 13 death means the Court is now more likely split 4-4 between conservative and liberal judges. But that's not certain. The Court is supposed to issue a decision by June, but if it's split, then the lower court decision upholding the status quo stands. It's also possible the Court could order the case to be re-argued next year, after a new justice is appointed.