

Living in a Post-Janus World

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Let's Start With Good News

- Public Sector Union Membership
 - Even or up since *Janus* issued
- In many states, the government is not our enemy

The Bad News - Litigation

- A variety of suits, across the country
- Spearheaded by
 - Freedom Foundation
 - National Right to Work for Less
 - Ambulance Chasers

What Are They Looking For?

- Injunctive Relief
- Retroactive Reimbursement of Fair Share Fees
- Return of Dues Paid

Limited Success

- Practices Have Already Changed
- Retroactivity is Tricky
 - Reasonable reliance on the law at the time
 - Benefits received from the Union
- Change in Law Does Not Generally Negate Contractual Obligations

- But, time and money to litigate...

Maintenance Clauses

- Maintenance of Membership
- Maintenance of Financial Obligation
- Political v. Legal Choice on Enforcement

Effect in Private Sector

- No Legal Effect
 - But...
- Lots of Bad Information

Legislation

- Access
 - People
 - Information
- Control Over Process
- Limits on the Acts of Management
- Limits on the Required Scope of Representation

Internal Organizing – Public Sector

- It's Working!!
- Separate from the Steward Function
- Early and Often
- Self-Enforcing Norm

What About the Private Sector?

- Focus on Public Sector, But Need in Private Sector Too
 - Right to Work for Less States
 - Unscrupulous Employers
 - Battles Over Union Security Clauses

Re-Focusing Representation

- NLRB General Counsel Position on Duty of Fair Representation
 - Current Standard
 - Can He Really Change It?
 - How is this Different?
- Not in the Public Sector yet...

Does This Change Grievance Analysis?

- Chances of Success
- Political Importance to the Unit Overall
- Importance to the Individual
 - Can the individual force a bad case to be arbitrated?
 - What are the consequences of moving forward?

Questions?