

**IN THE  
SUPREME COURT OF THE UNITED STATES**

\_\_\_\_\_  
No. \_\_\_\_  
\_\_\_\_\_

FREEDOM FOUNDATION,

*Applicant,*

v.

INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 117, a non-profit corporation;  
INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 763, an unincorporated  
association; INTERNATIONAL BROTHERHOOD OF TEAMSTERS LOCAL 760, an  
unincorporated association; JAY INSLEE, Governor, State of Washington,

*Respondents.*

\_\_\_\_\_  
**APPLICATION TO THE HON. ELENA KAGAN  
FOR AN EXTENSION OF TIME WITHIN WHICH TO FILE  
A PETITION FOR A WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT**  
\_\_\_\_\_

Pursuant to Supreme Court Rule 13(5), the Freedom Foundation (Applicant) hereby moves for an extension of time of 60 days, to and including July 10, 2025, for the filing of a petition for a writ of certiorari. Unless an extension is granted, the deadline for filing the petition for certiorari is May 11, 2025.

In support of this request, Applicant states as follows:

1. The U.S. Court of Appeals for the Ninth Circuit rendered its decision on December 31, 2024 (Exhibit 1) and denied a timely petition for rehearing en banc on February 10, 2025 (Exhibit 2). This Court has jurisdiction under 28 U.S.C. §1254(1).
2. This case concerns the ability of public employees to vindicate the First Amendment rights recognized in *Janus v. American Federation of State, County, &*

*Municipal Employees Council 31*, 585 U.S. 878 (2018). The First Amendment provides that the government “shall make no law ... abridging the freedom of speech.” U.S. Const. amend. I. As this Court has explained, “freedom of speech” “necessarily compris[es] the decision of both what to say and what not to say,” *Riley v. Nat’l Fed’n of the Blind of N.C., Inc.*, 487 U.S. 781, 796-97 (1988), as well as an individual’s “right to eschew association for expressive purposes,” *Janus*, 585 U.S. at 892. Applying these principles, this Court in *Janus* made clear that the First Amendment prohibits states and public-sector unions from “extract[ing]” fees “from nonconsenting employees” and that “[n]either an agency fee nor any other payment to [a] union may be deducted from a nonmember’s wages ... unless the employee affirmatively consents to pay.” *Id.* at 929-30.

3. Washington state law provides that a public employee can revoke union membership authorization only by making a written revocation request to the union. *See* Wash. Rev. Code §41.56.110(3)(a). Applicant is a non-profit organization that assists public employees in Washington with making such requests—namely, by providing them with legally effective resignation cards, which Applicant then mails and tracks on behalf of individual employees. Ex.1 at 3-4. Beginning in June 2021, however, three unions began refusing mail from Applicant, thus forcing employees to remain in those unions and to subsidize union speech over their objection. Accordingly, Applicant filed suit against the three unions as well as Washington’s governor (collectively, Respondents) to vindicate the employees’ First Amendment rights. Ex.1 at 2.

4. The district court granted summary judgment to Respondents, and the Ninth Circuit affirmed in the decision below, holding that “[a] union’s refusal to accept delivery of a public employee’s dues revocation is not state action.” Ex.1 at 4. Citing circuit precedent, the court of appeals reasoned that the “alleged constitutional deprivation did not result from ‘the exercise of some right or privilege created by the State or by a rule of conduct imposed by the state or by a person for whom the State is responsible.’” Ex.1 at 4-5. The court also stated that the unions “cannot fairly be ‘described ... as ... state actor[s]’” because Washington purportedly “did not ‘affirm[ ], authorize[], encourage[], or facilitate[] unconstitutional conduct.’” Ex.1 at 5.

5. The Ninth Circuit’s decision is deeply flawed, as it provides a blueprint to eviscerate this Court’s decision in *Janus*. *Janus* established that a public-sector employee has a First Amendment right to opt out of a union and that states may not extract dues payments over the employee’s objection. But the decision below holds that states may establish regimes in which they continue to extract union dues unless objecting employees first communicate their opt-out requests to unions, while unions can literally ignore those requests without implicating §1983. Unsurprisingly, that paradoxical decision conflicts with decisions from other courts—including the Seventh Circuit’s post-remand decision in *Janus* itself, which held that a union that relies on state officials to withhold union dues from a nonconsenting state employee’s paychecks readily qualifies as a “joint participant” in state action. *Janus v. Am. Fed’n of State, Cnty., & Mun. Emps., Council 31*, 942 F.3d 352, 361 (7th Cir. 2019) (quoting *Tulsa Pro. Collection Servs., Inc. v. Pope*, 485 U.S. 478, 486 (1988)). And the stakes

here are higher still, as this case is part of a broader trend in which states and unions have sought to undermine the rights recognized in *Janus*. See, e.g., *Klee v. Int’l Union of Operating Eng’rs, Loc. 501*, 2025 WL 252478 (9th Cir. Jan. 21, 2025).

6. Applicant’s counsel, Erin E. Murphy, did not participate in the proceedings below and requires additional time to examine the record, prior proceedings, and the governing precedent relevant to this case. Ms. Murphy also has substantial briefing obligations between now and the current due date of the petition, including an opening brief in *United States v. Alden Leeds Inc.*, Nos. 25-1049, 25-1272 (3d Cir.) (due May 6), and a brief in opposition in *Grande Communications Networks, LLC v. UMG Recordings, Inc.*, No. 24-967 (U.S.) (due May 9).

7. Applicant’s counsel thus requests a modest extension of time to prepare and file a petition that fully addresses the important and far-reaching issues raised by the decision below.

WHEREFORE, for the foregoing reasons, Applicant requests that an extension of time to and including July 10, 2025, be granted within which Applicant may file a petition for a writ of certiorari.

Respectfully submitted,



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