

# New Mexico, labor groups settle suit over union fees

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**SANTA FE –** A labor union representing state employees has agreed to pay about \$41,000 as part of a settlement in a class-action lawsuit over the collection of union fees.

The agreement comes after a state employee filed a lawsuit last year accusing the state and two union groups of illegally deducting union fees from his paycheck.

As part of the settlement, information technology technician David McCutcheon and more than 60 other state employees will share about \$16,000 in refunded union fees, according to the National Right to Work Legal Defense Foundation, which helped represent the plaintiffs.

A group affiliated with the Communications Workers of America will pay \$25,000 to the foundation to cover legal fees and similar costs.

In the lawsuit, McCutcheon and dozens of other employees said they had tried to exercise their rights under a recent U.S. Supreme Court decision, which held that union fees couldn't be required as a condition of government employment in unionized workplaces.

But the employees say they were told they had only a short window each year to formally opt out of the union fees.

“Public sector workers’ First Amendment rights cannot be limited to just a few days a year,” National Right to Work Foundation President Mark Mix said in a written statement. “These union boss-created ‘window periods’ clearly infringe on workers’ rights and are being struck down in lawsuits coast-to-coast brought with Foundation legal aid.”

The lawsuit, filed in December 2018, followed a U.S. Supreme Court decision that changed the legal landscape for collecting union fees.

Federal law already prohibited requiring union membership. But in unionized workplaces, before the court ruling, government employees could be forced to make “fair share” payments – based on the idea that because a union must represent everyone in a collective bargaining unit, everyone should pay a fair share for basic costs.

But the Supreme Court ruled that government workers who choose not to join unions cannot be required to finance union activity. Imposing the fees violates an employee’s First Amendment rights, the court ruled in a 5-4 decision.

In the New Mexico case, the settlement isn’t an acknowledgment of wrongdoing. The state and union groups deny violating the law and said they agreed to settle to avoid the cost of protracted litigation.

Named as defendants in the lawsuit were Communications Workers of America Local 7076; Communications Workers of America, AFL-CIO; and State Personnel Office Director Pamela Coleman.

The CWA didn’t respond to a request for comment.

Coleman said she was “pleased to see that a resolution was reached in this case.”

U.S. District Judge Martha Vazquez approved dismissal of the lawsuit Monday in connection with the settlement.