

Fair Share Fees on the Docket at the Supreme Court Again

PUBLISHED ON

October 2, 2017

The Supreme Court of the United States has again elected to weigh-in on the permissibility of public-sector employee unions collecting "fair share" fees from non-union employees.

The Court last week decided it will hear an appeal in the matter of [Mark Janus v. American Federation of State, County and Municipal Employees](#) from the U.S. Court of Appeals for the Seventh Circuit.

Fair share fees are ones a public-sector union can assess upon other similarly-situated employees of the same public employer who choose not to join the union. In theory, the fees serve to cover the union's cost of collective bargaining and contract administration by requiring non-union employees to contribute towards their share of the costs since the non-union employees also benefit from the work of the union.

In 1977, the Supreme Court confirmed the permissibility of fair share fees to cover the cost of the union's activities, but ruled they could not be used for political activities without infringing upon the non-union employee's constitutional right of free speech.

Much more recently, in 2016 the Supreme Court again had the opportunity to address the permissibility of fair share fees but couldn't come to consensus in a 4-4 tie due to the passing of Justice Antonin Scalia.

By electing to hear *Janus v. AFCE* now, with a full nine-member Court following the confirmation of Justice Neil Gorsuch, the Court will be positioned to directly decide whether it will uphold forty years of precedent or whether the end has finally come for fair share fees.

If you have any questions on fair share fees, contact any of the attorneys in [Barley Snyder's Labor Law or Education](#) groups.