

## 6th Circuit Upholds Michigan Law Which Bars Schools From Collection Union Dues

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The 6th Circuit in [Bailey v. Callahan](#), decided Thursday, May 9, has vacated an injunction entered by the District Court and has upheld Michigan's Public Act 53 which prohibits Michigan's public schools from assisting in the collection of dues and service fees for unions. The Court summarized the Union's First Amendment challenge to the statute in this way:

"Unions engage in speech (among many other activities); they need membership dues to engage in speech; if the public schools do not collect the unions' membership dues for them, the unions will have a hard time collecting the dues themselves; and thus Public Act 53 violates the unions' right to free speech."

The problem with that, according to the majority opinion, is that this argument has already been rejected by the U.S. Supreme Court in [Ysursa v. Pocatello Education Association](#), 555 U.S. 353 (2009). Moreover, the Court determined that Public Act 53 does not restrict speech and is not designed to specifically suppress speech by teachers' unions. Finally, the Court, in two paragraphs, rejected the plaintiff's equal protection argument.

The opinion incited a lengthy dissent from Circuit Judge Jane Stranch who contended that the majority "mischaracterizes the First Amendment interests at stake, glosses over key distinctions the Supreme Court requires us to observe, and averts its gaze from Act 53's blatant viewpoint discrimination."

With a 2-1 decision and a lengthy dissent on a Constitutional claim, one would think this is headed for an en banc determination by the full Sixth Circuit.

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