

EVENLY DIVIDED 7TH CIRCUIT REJECTS EN BANC REVIEW OF INDIANA'S RIGHT TO WORK ACT

January 14, 2015 | [Unions And Union Membership](#), [Labor And Employment](#)



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In a somewhat rare occurrence, the United States Court of Appeals for the Seventh Circuit is split right down the middle on whether to rehear a union's challenge to the constitutionality of Indiana's Right to Work Act. The Court voted 5-to-5 Tuesday on whether to rehear the appeal en banc. The even split means the three-judge panel's decision from September, 2014 upholding the statute under the United States Constitution stands. The 2014 decision upholding the constitutionality of the statute was a 2-1 split with Chief Judge Diane Wood writing in dissent. Wood, who obviously voted in favor of rehearing the case en banc, was joined by Judges Richard Posner, Ilana Rovner, Ann Williams and David Hamilton. Voting against rehearing en banc were Judges Joel Flaum, Frank Easterbrook, Michael Kanne, Diane Sykes and John David Tinder. The case was brought by the members and officers of the International Union of Operating Engineers Local 150. They argued in their petition for rehearing that the court's ruling was contrary to several U.S. Supreme Court and Seventh Circuit rulings regarding the National Labor Relations Act's pre-emption of this subject area and that the statute also constituted an "unconstitutional taking of union property." The union's next decision is whether to appeal the 7th Circuit's decision to the United States Supreme Court.

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