

## The USW Right To Work Case Clears First Hurdle

October 22, 2012 | [Labor And Employment](#)



**Gerald F.  
Lutkus**

Of Counsel  
(Retired)

### RELATED PRACTICE AREAS

Labor and Employment  
Labor Relations



The case brought by the United States Steelworkers attempting to overturn Indiana's Right to Work Act cleared its first hurdle last week. Counsel for the State of Indiana had filed a motion to dismiss the USW case on the grounds that it failed to state a claim and on the grounds that it improperly included Governor Mitch Daniels as a defendant.

Well, the State won on one ground – Daniels was dismissed as a defendant, but Lake County Circuit Court Judge George Paras held that he could not “categorically” rule “at this time” that the new statute does not violate the state constitution. The ruling allows the case to go forward to discovery – if necessary – and ultimate determination on the Union's request for a declaratory judgment that the law violates the state constitution.

The State had argued that the union could not raise its objections to the statute by filing a lawsuit for a declaratory judgment. But Judge Paras

concluded that “no other remedy exists for a timely determination of the constitutionality of the legislation in question.”

The union argues that the Act violates Article 1, Section 21, of the Indiana constitution, which provides, “No person's particular services shall be demanded, without just compensation.”

The Judge's ruling is [available here](#).