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NOTE: Where it is feasible, a syllabus (headnote) will be released, as is being done in connection with this case, at the time the opinion is issued. The syllabus constitutes no part of the opinion of the Court but has been prepared by the Reporter of Decisions for the convenience of the reader. See *United States* v. *Detroit Timber & Lumber Co.,* 200 U. S. 321, 337.

SUPREME COURT OF THE UNITED STATES

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LOCKE ET AL. *v.* KARASS, STATE CONTROLLER, ET AL.

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIRST CIRCUIT

No. 07–610. Argued October 6, 2008—Decided January 21, 2009

The collective-bargaining agreement between Maine and respondent local union, the exclusive bargaining agent for certain state employees, requires nonmember employees represented by the union to pay the local a "service fee" equal to the portion of union dues related to ordinary representational activities, *e.g.,* collective bargaining or contract administration activities. That fee does not include nonchargeable union activities such as political, public relations, or lobbying activities. The fee includes a charge that represents the "affiliation fee" the local pays to the national union. But, it covers only the part of the affiliation fee that helps to pay for the national's own chargeable activities, which include some litigation activities that directly benefit other locals or the national itself, rather than respondent local. The petitioners, nonmembers of the local, brought this suit claiming, *inter alia,* that the First Amendment prohibits charging them for any portion of the service fee that represents litigation that does not directly benefit the local, *i.e.,* "national litigation." The District Court found no material facts at issue and upheld this element of the fee. The First Circuit affirmed.

Held: Under this Court's precedent, the First Amendment permits a local union to charge nonmembers for national litigation expenses as long as (1) the subject matter of the (extra-local) litigation is of a kind that would be chargeable if the litigation were local, *e.g.,* litigation appropriately related to collective bargaining rather than political activities, and (2) the charge is reciprocal in nature, *i.e.,* the contributing local reasonably expects other locals to contribute similarly to the national's resources used for costs of similar litigation on behalf of the contributing local if and when it takes place. Pp. 4–13.

(a) Prior decisions frame the question at issue. The Court has long

held that the First Amendment permits local unions designated as the exclusive bargaining representatives for certain employees to charge nonmember employees a service fee as a condition of their continued employment. With respect to litigation expenses, the Court also held that a local could charge nonmembers for expenses of litigation normally conducted by an exclusive representative, including litigation incidental to collective bargaining, but said (in language that the petitioners here emphasize) that litigation expenses "not having such connection with the bargaining unit are not to be charged to objecting employees." *Ellis* v. *Railway Clerks*, 466 U. S. 435, 453. Later, the Court held, with respect to the chargeability of a local's payment of an affiliation fee to a national, that the local "may charge objecting employees for their pro rata share of the costs associated with otherwise chargeable activities of its state and national affiliates, even if those activities were not performed for the direct benefit of the objecting employees' bargaining unit." *Lehnert* v. *Ferris Faculty Assn.*, 500 U. S. 507, 524. The Court added that the local unit need not "demonstrate a direct and tangible impact upon the dissenting employee's unit," although there must be "some indication that the payment [say, to the national] is for services that may ultimately inure to the benefit of the members of the local union by virtue of their membership in the parent organization." *Ibid.* However, the *Lehnert* Court split into three irreconcilable factions on the subject here at issue, payment for national litigation. Pp. 4–9.

(b) Because *Lehnert* failed to find a majority as to the chargeability of national litigation expenses, the lower courts have been uncertain about the matter. Having examined the question further, however, the Court now believes that, consistent with its precedent, costs of such litigation are chargeable provided the litigation meets the relevant standards for charging other national expenditures that the *Lehnert* majority enunciated. Under those standards, a local may charge a nonmember an appropriate share of its contribution to a national's litigation expenses if (1) the subject matter of the national litigation bears an appropriate relation to collective bargaining and (2) the arrangement is reciprocal—that is, the local's payment to the national affiliate is for "services that may ultimately inure to the benefit of the members of the local union by virtue of their membership in the parent organization." 500 U. S., at 524. Logic suggests that the same standard should apply to national litigation expenses as to other national expenses, and the Court can find no significant difference between litigation activities and other national activities, the cost of which this Court has found chargeable. The petitioners' arguments to the contrary, which rest primarily on their understanding of *Ellis* and *Lehnert,* are rejected. Pp. 9–11.

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(c) Applying *Lehnert*'s standard to the national litigation expenses at issue demonstrates that they are both appropriately related to collective bargaining activities and reciprocal, and are therefore chargeable. First, the record establishes that the *kind* of national litigation activity for which the local charges nonmembers concerns only those aspects of collective bargaining, contract administration, or other matters that the courts have held chargeable. No one here denies that under *Lehnert* this kind of activity bears an appropriate relation to collective bargaining. See, *e.g.*, 500 U. S., at 519. Second, although the *location* of the litigation activity is at the *national* (or extraunit) level, such activity is chargeable as long as the charges are for services that may ultimately inure to local members' benefit by virtue of their membership in the national union. *Ibid.* Respondent local says that the payment of its affiliation fee gives locals in general access to the national's financial resources—compiled via contributions from various locals—which would not otherwise be available to the local when needed to effectively negotiate, administer, or enforce the local's collective-bargaining agreements. Because no one claims that the national would treat respondent local any differently from other locals in this regard, the existence of reciprocity is not in dispute. Pp. 11–13.

498 F. 3d 49, affirmed.

BREYER, J., delivered the opinion for a unanimous Court. ALITO, J., filed a concurring opinion, in which ROBERTS, C. J., and SCALIA, J., joined.