

## Eleventh Circuit Overturns Dismissal Of Race-Based Minimum Wage Statute Challenge

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On July 25, 2018, the U.S. Court of Appeals for the Eleventh Circuit overturned the Northern District of Alabama's dismissal of a challenge to Alabama's Minimum Wage and Right-to-Work Act (the "Act") on the basis that the Alabama State Legislature may have violated the Fourteenth Amendment in enforcing the Act. In April 2015, the City of Birmingham – which is 72 percent African American and 30 percent below the poverty line – passed an ordinance to raise its minimum wage from \$8.50 per hour to \$10.10 per hour. The ordinance went into effect in February 2016. However, the very next day after the ordinance went into effect, Alabama Governor Robert Bentley signed the Act requiring a uniform \$7.25 minimum wage throughout Alabama.

A coalition of public interest groups sued the Governor and Attorney General of Alabama claiming the Act was a form of racial discrimination that violated the Fourteenth Amendment. The district court dismissed the claim. However, the Eleventh Circuit overturned the dismissal and remanded the claim for further proceedings. In doing so, the Eleventh Circuit held that the plaintiffs had sufficient evidence of racial discrimination to proceed with their lawsuit.

To survive dismissal and ultimately to prevail on their claim, the plaintiffs need to establish that the Act has both discriminatory impact and discriminatory intent. First, the court found that discriminatory impact was plausible. The Act denied 37 percent of Birmingham's African American workers a higher wage, compared to only 27 percent of Caucasian workers. Next, the court found that discriminatory intent was also possible. The Act was introduced by a Caucasian representative from a predominantly Caucasian area. The bill had 52 other sponsors – all are Caucasian. The bill was pushed through the legislative process in a mere 16 days in response to Birmingham's new ordinance with little chance for public comment or debate. Every African American member of the legislature opposed the bill. This, combined with Alabama's legacy of passing racially-charged laws to restrict the rights of African Americans, was sufficient to survive dismissal.

The controversy surrounding Alabama's Act might be particular to the racial and economic demographics of Birmingham and Alabama generally, but it highlights a nationwide tug of war between states and municipalities. Several states across the country have blocked cities from raising wages, including [one I previously detailed in Ohio](#). These laws cause tension where factors such as the racial makeup or cost of living of a larger city might differ markedly from the rest of the state and the state-wide laws are not realistic in the city. We will continue to monitor this case and other emerging disputes between states and municipalities and bring them to you.