

STATE OF MINNESOTA
COUNTY OF HENNEPIN

DISTRICT COURT
FOURTH JUDICIAL DISTRICT

Case Type: Other Civil/Miscellaneous

27-CV-17-17198

Minnesota Chamber of Commerce,
TwinWest Chamber of Commerce, Minnesota
Recruiting & Staffing Association, and Graco,
Inc.,

Plaintiffs,

vs.

City of Minneapolis,

Defendant.

**MEMORANDUM OF AMICI CURIAE CENTRO DE TRABAJADORES UNIDOS
EN LA LUCHA, 15 NOW MINNESOTA, AND NATIONAL EMPLOYMENT
LAW PROJECT**

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ATTORNEYS FOR AMICI CURIAE

PURPOSE AND INTEREST OF AMICI CURIAE¹

Centro de Trabajadores Unidos en la Lucha (“CTUL”) is a non-profit organization based in Minneapolis, Minnesota, dedicated to empowering the City of Minneapolis’ (“City”) workers. CTUL organizes low-wage workers from across the Twin Cities to develop leadership and educate one another to build power and lead the struggle for fair wages, better working conditions, basic respect, and a voice in their workplaces. CTUL is an organization of workers and for workers, committed to securing fair working conditions for present and future generations. CTUL organized workers in support of the \$15 minimum wage adopted by the City in Article IV of Chapter 40 of Title 2 of the Minneapolis Code of Ordinances, Minneapolis, Minn. Code § 40.320 *et seq.* (hereinafter “Ordinance”). CTUL has an interest in ensuring that the validity of the Ordinance is upheld so that low-wage workers in the City may begin to benefit from a much-needed wage increase on January 1, 2018.

15 Now Minnesota is a non-profit, grassroots organization fighting together with low-wage workers, the labor movement, and supporters for a \$15 per hour minimum wage. They are the local chapter of 15 Now, an organization that launched in 2014 and led the victory for a \$15 minimum wage in Seattle, the first major city to pass a \$15 minimum wage. The goal of 15 Now Minnesota is to empower working people and build a broad-based movement for living wages and working conditions in the Twin Cities. 15

¹ In accordance with Minn. R. Civ. App. P. 129.03, *Amici Curiae* state that this brief was prepared solely by the organizations named as *Amici Curiae* and their counsel. No party made a monetary contribution towards its preparation.

Now Minnesota has an interest in ensuring that the validity of the Ordinance is upheld so that low-wage workers in the City may begin to benefit from a much-needed wage increase on January 1, 2018.

The National Employment Law Project (“NELP”) is a national legal, research, and policy organization known for its expertise on workforce issues. NELP has worked with most of the cities in the United States that have adopted higher city minimum wages. NELP has an interest in ensuring that the Ordinance is fully enforced according to its terms, and that the challenges raised by Plaintiffs be rejected.

SUMMARY OF ARGUMENT

Plaintiffs in this case seek 1) a declaration that the Ordinance is invalid because state law preempts the Ordinance; and 2) an injunction to prohibit the Ordinance from going into effect or being enforced. *Amici Curiae* submit this brief to provide proper context for the Court to consider the validity of the Ordinance that neither party to this action is likely to present. First, *Amicus Curiae* present evidence showing that a growing number of cities and counties across the country are adopting local minimum wage laws and that these local minimum wage laws have benefitted both workers and businesses in those communities. Second, *Amici Curiae* demonstrate that Plaintiffs’ arguments do not reflect the majority view of other states that have found similar local minimum wage laws valid. Third, *Amici Curiae* offer a review of extensive economic and anecdotal evidence showing that higher local minimum wages have raised wages for local low-wage workers without slowing job growth or pushing businesses to close or relocate. Finally, *Amici Curiae* discuss evidence dispelling the myth that a higher minimum wage harms small businesses. Economic

research finds that small businesses stand to benefit from a higher minimum wage through a reduction in turnover costs, as well as increases in productivity and consumer spending.

Ultimately, upholding the Ordinance would allow the City to carry out its longstanding duty to improve the health, safety, and welfare of its residents by responding to the critical needs of workers in Minneapolis who simply cannot afford to live on the current minimum wage.

ARGUMENT

I. A GROWING NUMBER OF CITIES ACROSS THE U.S. ARE ADOPTING HIGHER LOCAL MINIMUM WAGES TO ADDRESS LOCAL NEEDS

Over the past decade, a growing number of U.S. cities have pursued higher minimum wages at the local level. Looking to local government for solutions to problems that were once viewed as largely in the federal or state government’s purview is part of a growing trend of policymaking galvanized by the Great Recession and the increasingly divisive nature of state and national politics.² The trend is spanning into a wide range of areas, as both Congress and state legislatures find themselves frequently gridlocked and unable to respond to significant public needs. According to a 2015 poll conducted by Hart Associates, almost two-thirds (63 percent) of Americans support an increase of the federal minimum wage to \$15 by 2020.³ In Minneapolis, given the high cost of living in the City

² Nancy Cook, “Americans Prefer Their Solutions Locally Sourced,” *The Atlantic*, Mar. 14, 2015, *available at* <https://tinyurl.com/h4vaq4r>.

³ National Employment Law Project, New Poll Shows Overwhelming Support for Major Minimum Wage Increase (Jan. 2015), *available at* <https://tinyurl.com/z2y8tys>.

relative to the rest of the state, City residents and policymakers looked for policy change locally through the Ordinance.

Although most citywide minimum wage campaigns have taken place in the last four years,⁴ citywide minimum wage ordinances have been a useful legal and economic tool for policymakers for over a decade,⁵ and the City of Baltimore enacted one of the earliest minimum wage ordinances in 1964.⁶ These laws have proven, both legally and economically, that it is feasible to raise wages in accordance with economic indicators.⁷ These increases have taken place in more than forty cities and counties and in more than twenty states across the country.⁸

Figure 1: City and Countywide Minimum Wage Ordinances in the U.S. (2003–Present)⁹

City/County	Year Passed	Minimum Wage
Santa Fe, New Mexico	2003	\$9.50 by 2006 (Current: \$11.09)
San Francisco, California	2003 2014	\$12.25 by 2015 \$15.00 by 2018 (Current: 13.00)
Albuquerque, New Mexico	2012	\$8.50 by 2013 (Current: \$8.80 with benefits/\$7.80 without benefits)
San Jose, California	2012 2016	\$10.00 by 2013 \$15.00 by 2019

⁴ National Employment Law Project, *Fight for \$15’s Four-Year Impact: \$62 Billion in Raises For America’s Workers* (Nov. 2016), available at <http://www.nelp.org/news-releases/fight-for-15s-four-year-impact-62-billion-in-raises-for-americas-workers/>.

⁵ See National Employment Law Project, *City Minimum Wage Laws: Recent Trends and Economic Evidence* (Apr. 2016), available at <https://tinyurl.com/hko5g8y>.

⁶ *City Council of Baltimore v. Sitnick*, 225 A.2d 376 (Md.Ct.App. 1969).

⁷ See *supra* note 5.

⁸ *Id.*; see also *Raise the Minimum Wage*, <http://raisetheminimumwage.com/>.

⁹ Complete list on file with author and current as of Nov. 15, 2017.

		(Current: \$13.50)
Bernalillo County, New Mexico	2013	\$8.50 by 2014 (Current: \$8.70)
Washington, D.C.	2013 2016	\$11.50 by 2016 \$15.00 by 2020 (Current: \$12.50)
Montgomery County, Maryland	2013	\$11.50 by 2017 (Current: \$11.50)
Prince George's County, Maryland	2013	\$11.50 by 2017 (Current: \$11.50)
SeaTac, Washington	2013	\$15.00 by 2014 (Current: \$15.34)
Las Cruces, New Mexico	2014	\$10.10 by 2019 (Current: \$9.20)
Santa Fe County, New Mexico	2014	\$10.66 by 2014 (Current: \$11.09)
Mountain View, California	2014 2015	\$10.30 by 2015 \$15.00 by 2018 (Current: \$13.00)
Sunnyvale, California	2014 2016	\$10.30 by 2015 \$15.00 by 2018 (Current: \$13.00)
Oakland, California	2014	\$12.25 by 2015 (Current: \$12.86)
Berkeley, California	2014 2016	\$12.53 by 2016 \$15.00 by 2018 (Current: \$13.75)
Richmond, California	2014	\$13.00 by 2018 (Current: \$12.30)
Chicago, Illinois	2014	\$13.00 by 2019 (Current: \$11.00)
Seattle, Washington	2014	\$15.00 by 2017–21 (Current: \$15.00 for large employers with no medical benefits; \$13.50 for large employers with medical benefits; \$13.00 for small employers with no medical benefits; \$11.00 for small employers with medical benefits)
Louisville, Kentucky ¹⁰	2015	\$9.00 by 2017

¹⁰ The Kentucky Supreme Court found that local minimum wage laws were preempted by state law. *Kentucky Restaurant Association et al. v. Louisville/Jefferson County Metro*

Emeryville, California	2015	\$15.00 by 2018 (Current: \$15.20 for large employers; \$14.00 for small employers)
Los Angeles, California	2015	\$15.00 by 2020–21 (Current: \$12.00 for large employers; \$10.50 for small employers)
Los Angeles County, California	2015	\$15.00 by 2020–21 (Current: \$12.00 for large employers; \$10.50 for small employers)
Portland, Maine	2015	\$10.68 by 2017 (Current: \$10.68)
Birmingham, Alabama ¹¹	2015	\$10.10 (2017)
Palo Alto, California	2015 2016	\$11.00 by 2016 \$15 by 2019 (Current: \$13.50)
St. Louis, Missouri	2015	\$11.00 by 2018
Johnson County, Iowa	2015	\$10.10 by 2017
Sacramento, California	2015	\$12.50 (2020) (Current: \$10.50 for large employers; \$10.00 for small employers)
Tacoma, Washington	2015	\$12.00 by 2018 (Current: \$11.15)
Lexington, Kentucky ¹²	2015	\$10.10 by 2018
Bangor, Maine	2015	\$9.75 by 2019 (Current: \$9.00, which is the state level)
El Cerrito, California	2015	\$15.00 by 2019 (Current: \$12.25)
Santa Clara, California	2015	\$11.00 by 2016 (Current: \$11.10)
Flagstaff, Arizona	2016	\$15.00 by 2021 (Current: \$10.50)
Long Beach, California	2016	\$15 by 2019–2020 ¹³

Government (Sup. Ct. KY) (No. 2015-CA-000996) (Oct. 20, 2016). The legislature also subsequently enacted legislation to preempt local minimum wage laws. HB3, 2016 Reg. Sess. (Ky. 2017).

¹¹ The city enacted a local minimum wage law in 2015, but the state legislature responded by passing legislation to invalidate that law and preempt all minimum wage laws in Alabama. Ala. Code § 25-7-41.

¹² *See supra* note 10.

¹³ The legislation enacted by Long Beach approved \$15.00 by 2021, but after passage of a statewide \$15.00 minimum wage bill, the city adopted the state phase-in schedule.

		(Current: \$10.50 for large employers; \$10.00 for small employers)
San Diego, California	2016	\$11.50 by 2017 (Current: \$11.50)
San Mateo, California	2016	\$15.00 by 2019–2020 (Current: \$12.00 citywide; \$10.50 for non-profits)
Santa Monica, California	2016	\$15.00 by 2020–2021; \$15.37 by 2017 for hotel industry (Current: \$12.00 for large employers; \$10.50 for small employers)
Miami Beach, Florida ¹⁴	2016	\$13.31 by 2021 (Current: \$8.10, which is the state level)
Cook County, Illinois	2016	\$13.00 by 2020 (Current: \$10.00)
Linn County, Iowa ¹⁵	2016	\$10.25 by 2019
Polk County, Iowa ¹⁶	2016	\$10.75 by 2019
Wapello County, Iowa ¹⁷	2016	\$10.10 by 2019

II. THE MAJORITY OF COURTS HAVE FOUND THAT LOCAL MINIMUM WAGE ORDINANCES DO NOT CONFLICT WITH STATE LAW AND RECOGNIZED CITIES’ ROLE IN ADDRESSING ISSUES AFFECTING THEIR COMMUNITIES

To date, courts in Missouri, New Mexico, Maryland, and Wisconsin have held that their state’s minimum wage law set a minimum wage floor, not a ceiling, and these courts have not found implied preemption of local minimum wage laws mandating a higher

Jason Ruiz, “Long Beach Adopts California Minimum Wage Schedule With Local Wage Enforcement,” *Long Beach Post*, Sept. 7, 2016, *available at* <http://lbpost.com/news/2000009544-long-beach-adopts-california-minimum-wage-schedule-with-local-wage-enforcement>.

¹⁴ Whether an express minimum wage preemption state law applies to the Miami Beach minimum wage ordinance is currently being litigated. *See City of Miami Beach v. Florida Retail Federation, et al.*, No. 3D17-0705 (Third Dist. Ct. of App. Filed June 8, 2017).

¹⁵ The state legislature preempted all past and future local minimum wage laws in Iowa in March 2017. H.F. 295, 87th Gen. Assem. (Iowa. 2017).

¹⁶ *Id.*

¹⁷ *Id.*

minimum wage than state law. *See Cooperative Home Care, Inc. v. City of St. Louis*, 514 S.W.3d 571, 578 (Mo. 2017); *New Mexicans for Free Enterprise v. City of Santa Fe*, 126 P.3d 1149 (N.Mex.Ct.App. 2005); *City Council of Baltimore v. Sitnick*, 225 A.2d 376 (Md.Ct.App. 1969); *Main Street Coalition for Economic Growth v. City of Madison*, No. 04-CV-3853, slip op. (Dane County Cir. Ct., Branch 2, Apr. 21, 2005). Only Kentucky has found that a local minimum wage law was preempted by state law. *Kentucky Restaurant Association v. Louisville/Jefferson County Metro Government*, 501 S.W.3d 425, 426 (Ky. 2016).¹⁸

As is relevant for this case, most recently, the Missouri Supreme Court considered whether the state’s minimum wage law, which provides that “every employer shall pay to each employee at the rate of \$6.50 per hour, or wages at the same rate or rates set under the provisions of federal law” preempted a St. Louis City ordinance establishing a citywide local minimum wage. *Cooperative Home Care, Inc.*, 514 S.W.3d at 583. The court rejected the plaintiffs’ argument that the local law conflicted with the state minimum wage law because the state law “constitute[d] a specific authorization for employers to pay to an employee any wage at or above the statutory minimum, and an ordinance providing for a higher minimum wage ‘prohibits what the state law permits.’” *Id.* The court explained that the state law simply “sets a floor below which an employee cannot be paid,” acknowledging that the state’s “recognized purpose” was “to ameliorate

¹⁸ A New York appellate court found that state law preempted a New York City minimum wage law in 1963, but the case is distinguishable—it involved a state statute expressly prohibiting any law that supersedes a provision of the state’s labor law. *See Wholesale Laundry Board of Trade v. City of New York*, 12 N.Y.2d 998 (1963), *aff’g*, 17 A.D.2d 327 (1962).

the unequal bargaining power as between employer and employee and to protect the rights of those who toil.” *Id.* (internal quotations and citation omitted). Ultimately, the court found that the state law’s “purpose of protecting employees is served by setting a floor for minimum wages” and that “nothing in the law suggests the state also wanted to protect employers by setting a maximum minimum wage.” *Id.* at 583–84.

A decision by this Court upholding the Ordinance would also reflect the growing consensus among courts in analogous contexts that state minimum wage laws set a floor and allow localities to supplement with higher wages. *See, e.g., Filo Foods, LLC v. City of SeaTac*, 357 P.3d 1040 (Wash. 2015) (en banc) (finding that city minimum wage ordinance does not conflict with state statute on airports); *RUI One Corp. v. City of Berkeley*, 371 F.3d 1137, 1150 (9th Cir. 2004) (Noting that cities have the power to regulate wages and employment conditions).

III. HIGHER LOCAL MINIMUM WAGES HAVE RAISED WAGES FOR LOCAL WORKERS WITHOUT SLOWING JOB GROWTH OR LEADING BUSINESSES TO CLOSE OR RELOCATE

I. Rigorous Economic Studies Show that a Higher Local Minimum Wage Has No Discernible Impact on Employment

The most rigorous research over the past twenty years—examining scores of state and local minimum wage increases across the U.S.—demonstrates that these increases have had the effect of raising workers’ incomes *without* reducing employment. The substantial weight of evidence reflects a significant shift in the views of economists away from a former view that higher minimum wages cost significant numbers of jobs.

Some of the latest research, released in December 2016 by the White House Council of Economic Advisors, examined states that have raised their minimum wages in recent years in the U.S. and found that they have enjoyed the same job growth rates in industries affected by the minimum wage as states that did not. The most sophisticated of the new wave of minimum wage studies, “Minimum Wage Effects across State Borders,” was published in 2010 by economists at the Universities of California, Massachusetts, and North Carolina in the prestigious *Review of Economics and Statistics*.¹⁹ That study carefully analyzed minimum wage impacts across state borders by comparing employment patterns in more than 250 pairs of neighboring counties in the U.S. that had different minimum wage rates between 1990 and 2006 as the result of being located in states with different minimum wages.²⁰

Consistent with a long line of similar research, the study found no difference in job growth rates in the data from the 250 pairs of neighboring counties, and it found no evidence that higher minimum wages harmed states’ competitiveness by pushing businesses across the state line.²¹ This study’s innovative approach of comparing neighboring counties on either side of a state line is generally recognized as especially effective at isolating the true impact of minimum wage differences, and the results can be

¹⁹ Arindrajit Dube et al., “Minimum Wage Effects across State Borders: Estimates Using Contiguous Counties” *The Review of Economics and Statistics* (Nov. 2010) 92(4): 945–64.

²⁰ *Id.*

²¹ *Id.* Similar, new research has also focused on teen workers. The research has similarly found no evidence that minimum wage increases in the U.S. in recent years have had any adverse effect on teen employment. See Sylvia Allegretto et al., Do Minimum Wages Reduce Teen Employment?, *Industrial Relations* at vol. 50, no. 2. (Apr. 2011).

analogized to counties within a state that have differing minimum wages due to a citywide ordinance in an urban area.

However, it is not simply individual state-of-the-art studies, but the whole body of modern research on the minimum wage that now indicates that higher minimum wages have had little impact on employment levels. This is clearly demonstrated by several recent “meta-studies” surveying research. For example, a 2009 meta-study of sixty-four studies of the impact of minimum wage increases shows that the bulk of the studies find close to no impact on employment.²² Another recent meta-study demonstrates similar results.²³

Research focusing on the impact of higher minimum wages on small businesses has similarly shown that higher minimum wages do not negatively impact job growth, and it has found faster job growth in higher-minimum-wage states. A 2006 report published by the Fiscal Policy Institute that examined state-by-state trends for small businesses employing fewer than fifty workers found that “employment and payrolls in small businesses grew faster in the states with minimum wages above the federal level.”²⁴ Studies of the New York and California \$15 minimum wages by University of California economists have examined the net impact of all the positive and negative effects on

²²Hristos Doucouliagos & T.D. Stanley, “Publication Selection Bias in Minimum-Wage Research? A Meta-Regression Analysis,” *British J. of Indus. Relations*, Vol. 47, Iss. 2, (May 2009).

²³Paul Wolfson & Dale Belman, “What Does the Minimum Wage Do?,” *Upjohn Inst. for Employ. Res.* (2014), available at http://research.upjohn.org/up_press/227/.

²⁴ Fiscal Policy Institute, *States with Minimum Wages above the Federal Level Have Had Faster Small Business and Retail Job Growth* (Mar. 2006) at 3, available at <http://www.fiscalpolicy.org/FPISmallBusinessMinWage.pdf>.

businesses of a \$15 wage.²⁵ These studies found that unlike small wage increases, a \$15 minimum wage generates billions in new consumer spending that offsets much of the impact of the higher wage costs on businesses.³¹ As a result, any net negative impact on jobs would likely be small—and would be vastly outweighed by the benefits of delivering large raises for more than 1 in 3 workers.

The two U.S. cities that have had higher local minimum wages for the longest period are San Francisco, California, and Santa Fe, New Mexico.²⁶ Both adopted significantly higher local minimum wages in 2003, and the impact of the minimum wage increase has been the subject of sophisticated economic impact studies. In San Francisco, a 2007 study by University of California researchers gathered employment and hours data from restaurants in San Francisco as well as from surrounding counties that were not covered by the higher minimum wage. The researchers found that the higher wage had not led San Francisco employers to reduce either their employment levels or employee hours worked.²⁷ A follow-up 2014 study examined the combined impact on San Francisco employers of the city's minimum wage ordinance and of other city

²⁵ Michael Reich et al., UC Berkeley Labor Center, *The Effects of a \$15 Minimum Wage in New York State* (Mar. 2016), *available at* <http://laborcenter.berkeley.edu/the-effects-of-a-15-minimum-wage-in-new-york-state/>; Michael Reich et al., Institute for Research on Labor and Employment, *The Effects of a \$15 Minimum Wage in California and Fresno* (Jan. 2017), *available at* <https://tinyurl.com/j6f5ume>.

²⁶ For a helpful overview of this literature on the impact of city minimum wages, see Michael Reich et al., *Local Minimum Wage Laws: Impacts on Workers, Families and Businesses: Report prepared for the Seattle Income Inequality Advisory Committee* (Mar. 2014) at 17–19, *available at* <https://tinyurl.com/m8dsjny>.

²⁷ Michael Reich et al., Institute for Research on Labor and Employment, *The Economic Effects of a Citywide Minimum Wage (2007)*, *available at* http://www.irlle.berkeley.edu/cwed/wp/economicimpacts_07.pdf.

compensation mandates that cumulatively raised employment costs 80 percent above the level of the federal minimum wage. The study again found no adverse effect on employment levels or hours. Food service jobs—the sector most heavily affected—actually grew 17 percent faster in San Francisco than surrounding counties during that period.²⁸ Similarly, after Santa Fe raised its minimum wage to 65 percent above the state rate, a 2006 study compared job growth in Santa Fe with that in Albuquerque, which at that time did not have a higher city minimum wage. It determined that “the living wage had no discernible impact on employment per firm, and that Santa Fe actually did better than Albuquerque in terms of employment changes.”²⁹

A 2011 study of higher minimum wages in San Francisco, Santa Fe, and Washington, D.C., compared employment impacts to surrounding suburbs and cities. The study concluded that “[t]he results for fast food, food services, retail, and low-wage establishments . . . support the view that a citywide minimum wages [sic] can raise the earnings of low-wage workers, without a discernible impact on their employment.”³⁰

²⁸ Michael Reich et al., “When Mandates Work: Raising Labor Standards at the Local Level,” *Univ. of Calif. Press* (2014) at 31.

²⁹ Bureau of Business and Economic Research, University of New Mexico, *Measuring the Employment Impacts of the Living Wage Ordinance in Santa Fe, New Mexico* (Jun. 2006), available at <http://bber.unm.edu/pubs/EmploymentLivingWageAnalysis.pdf>.

³⁰ John Schmitt & David Rosnick, Center for Economic and Policy Research, *The Wage and Employment Impact of Minimum-Wage Laws in Three Cities* (Mar. 2011) at 1, available at <http://www.cepr.net/documents/publications/min-wage-2011-03.pdf>.

II. Experiences of Cities That Have Recently Raised the Minimum Wage Have Disproven Opponents' Predictions

In addition to extensive research, the actual experiences of cities that have recently raised the minimum wage at the local level have shown that such increases have been manageable. It is not surprising that some employers might be anxious about the possible impact on their businesses of a higher minimum wage—and might fear that it would force them to cut jobs. But cities that have phased in higher minimum wages in recent years have found that predictions that they would be forced to reduce employee hours or reduce job positions in order to adjust to the higher minimum wage have not been borne out.

For example, in San Jose, California, business groups made similar predictions before voters approved raising the city's minimum wage. But the actual results did not bear out those fears. As the *Wall Street Journal* reported, “[f]ast-food hiring in the region accelerated once the higher wage was in place. By early [2014], the pace of employment gains in the San Jose area beat the improvement in the entire state of California.”³¹ *USA Today* similarly found that “[i]nterviews with San Jose workers, businesses and industry officials show [the city minimum wage] has improved the lives of affected employees while imposing minimal costs on employers.”³² The same pattern was repeated when

³¹Eric Morath, “What Happened to Fast-Food Workers When San Jose Raised the Minimum Wage?” *Wall Street Journal*, Apr. 9, 2014, available at <http://blogs.wsj.com/economics/2014/04/09/what-happened-to-fast-food-workers-when-san-jose-raised-the-minimum-wage/>.

³²Paul Davidson, “In San Jose, higher minimum wage pays benefits,” *USA Today*, June 14, 2014, available at <http://www.usatoday.com/story/money/business/2014/06/14/minimum-wage-san-jose/9968679/>.

SeaTac, Washington, phased in its \$15 minimum wage—the nation’s first at that level. As *The Seattle Times* reported, “[f]or all the political uproar it caused, SeaTac’s closely watched experiment with a \$15 minimum wage has not created a large chain reaction of lost jobs and higher prices”³³ *The Washington Post* confirmed that “[t]hose who opposed the \$15 wage in SeaTac and Seattle admit there has been no calamity so far.”³⁴

In Seattle, while many business owners supported the increase, other business owners predicted that increasing the city’s minimum wage to \$15 would lead to dramatic job losses for restaurants and strain on small businesses. An article by the *Puget Sound Business Journal* reported in October 2015 that the restaurant business in Seattle is, in fact, booming.³⁵ More recent reports confirm that neither the city’s economy nor the restaurant industry has suffered.³⁶ A study released in June by the University of California at Berkeley’s Institute for Research and Employment assessing Seattle’s \$15 minimum wage law concluded that the law had not had significant effects on employment and succeeded in raising wages for restaurant workers.³⁷

³³ Amy Martinez, “\$15 wage floor slowly takes hold in SeaTac,” *The Seattle Times*, June 3, 2014, available at

http://seattletimes.com/html/localnews/2022905775_seatacprop1.xml.html.

³⁴ Dana Milbank, “Raising the minimum wage without raising havoc,” *The Washington Post*, Sept. 5, 2014, available at <https://tinyurl.com/hyux5yp>.

³⁵ Jeanine Stewart, “Apocalypse Not: \$15 and the cuts that never came,” *Puget Sound Business Journal*, Oct. 23, 2015, available at <https://tinyurl.com/hrmjzau>.

³⁶ Blanca Torres, “A year in, ‘the sky is not falling’ from Seattle’s minimum-wage hike,” *The Seattle Times*, Mar. 31, 2016, available at <https://tinyurl.com/j6zf2dk>.

³⁷ Gene Johnson, “Study: Seattle minimum wage hasn’t cut jobs,” *AP*, June 20, 2017, available at <https://www.apnews.com/91eccc75fe824fb8a0a69927e02afa5d>.

IV. SMALL BUSINESSES HAVE SUPPORTED PAST MINIMUM WAGE INCREASES, INCLUDING AT THE LOCAL LEVEL, AND STAND TO BENEFIT FROM A HIGHER MINIMUM WAGE

Small business owners around the country support a higher minimum wage in significant numbers, and they have been crucial partners in local and statewide campaigns to raise the minimum wage. These business owners understand that a higher minimum wage can reduce turnover costs, improve customer service, increase consumer spending, and level the playing field for businesses competing with large corporations.

A poll by the Small Business Majority showed that 60 percent of small business owners support raising the federal minimum wage to \$12 and increasing it annually to keep up with cost of living increases.³⁸ The poll also found that 82 percent of small businesses “already pay their workers more than the minimum wage,” and “more than half of small business owners agree increasing the minimum wage would make consumers more likely to spend money, driving up demand for goods and services at small businesses.”³⁹ Small businesses also believe that “raising the minimum wage would reduce the burden on public assistance programs and level the playing field for small businesses that understand the need for properly-compensated workers.”⁴⁰

In state minimum wage campaigns that ultimately adopted a \$15 minimum wage, business organizations representing more than 32,000 small businesses either explicitly endorsed the campaign or simply did not oppose it. These include the Greater New York

³⁸ Small Business Majority, Report: An Agenda for America’s Economic Future (Sept. 10, 2015) at 22, *available at* <https://tinyurl.com/z376qh2>.

³⁹ *Id.*

⁴⁰ *Id.*

Chamber of Commerce (endorsed),⁴¹ the Brooklyn Chamber of Commerce (endorsed),⁴² the Northeast Organic Farmers Association-New York Chapter (endorsed),⁴³ the Long Island and Westchester/Putnam African-American Chambers of Commerce (endorsed),⁴⁴ the Restaurant Association of Metropolitan Washington (endorsed),⁴⁵ the Golden Gate Restaurant Association (did not oppose),⁴⁶ and others. In 2016, *The Washington Post* broke a story concerning leaked polling research conducted for a national umbrella group of chambers of commerce and other documents obtained by the Center for Media and Democracy.⁴⁷ The leaked poll showed that 80 percent of CEOs, business owners, and executives at companies of all sizes supported raising the minimum wage in their states, while only 8 percent opposed it.

⁴¹ Office of the Governor of New York, Governor Cuomo, Joined by Vice President Biden, Announces Push to Raise New York’s Minimum Wage to \$15 an Hour (Sept. 2015), *available at* <https://www.governor.ny.gov/news/governor-cuomo-joined-vice-president-biden-announces-push-raise-new-yorks-minimum-wage-15-hour>.

⁴² Paula Katinas, “Chamber Brings Brooklyn Business Concerns to Albany,” *Brooklyn Daily Eagle*, Mar. 16, 2016, *available at* <https://tinyurl.com/hppcae8>.

⁴³ Elizabeth Henderson, “\$15 Minimum: Good for Farmers,” *Morning AgClips*, Mar. 22, 2016, *available at* <https://tinyurl.com/hr9z5s7>.

⁴⁴ Phil Andrews, “A \$15 Minimum Wage is Good for Long Island Businesses,” *The Huffington Post*, Mar. 24, 2016, *available at* <https://tinyurl.com/z9opx4t>.

⁴⁵ Martin Austermuhle, “D.C. Takes First Step Towards \$15 Minimum Wage,” *WAMU* 88.5, June 7, 2016, *available at* http://wamu.org/story/16/06/07/dc_takes_first_step_towards_15_minimum_wage/.

⁴⁶ Samantha Higgins, Golden Gate Restaurant Association, The State of the Industry: An Update from GGRA’s Executive Director (Apr. 20, 2016), *available at* <http://ggra.org/the-state-of-the-industry-an-update-from-ggras-executive-director/>.

⁴⁷ Mitchell Hirsch, National Employment Law Project, Leaked Poll for Chambers of Commerce Shows Business Execs Overwhelmingly Support Raising the Minimum Wage (Apr. 12, 2016), *available at* <http://www.nelp.org/blog/leaked-poll-for-chambers-of-commerce-shows-business-execs-overwhelmingly-support-raising-the-minimum-wage/>.

Economic evidence supports small business owners' concern with high employee turnover costs and the role that a higher minimum wage can play in reducing such costs and improving productivity. Low-wage industries are plagued by high turnover rates. Turnover rates in the restaurants-and-accommodations sector, for example, exceed 60 percent per year, according to the National Restaurant Association.⁴⁸ For home health aide workers, turnover rates are 40 to 65 percent per year.⁴⁹ The Washington Center for Equitable Growth estimates that it costs an employer “about one-fifth of a worker’s annual salary to replace that worker regardless of the salary paid on the income spectrum.”⁵⁰ *The Wall Street Journal* has referred to turnover in the low-wage sector as “a special scourge of retail and service companies” that costs a company \$4,275 in staffing and retraining costs each time it replaces an employee.⁵¹

⁴⁸ National Restaurant Association, *Economist's Notebook: Hospitality employee turnover rose slightly in 2013 (Mar. 2014)*, available at <http://www.restaurant.org/News-Research/News/Economist-s-Notebook-Hospitality-employee-turnover>.

⁴⁹ Sarah Portlock, “Help Wanted (a Lot): Home-Health Aides: Fast-Growing Industry Experiences High Turnover Amid Low Pay and Demanding Duties,” *Wall Street Journal*, Aug. 22, 2014, available at <http://www.wsj.com/articles/help-wanted-a-lot-home-health-aides-1408721457>.

⁵⁰ Washington Center for Equitable Growth, *Working by the hour: The economic consequences of unpredictable scheduling practices (Sept. 2016)* at 8, available at <http://equitablegrowth.org/research-analysis/working-by-the-hour-the-economic-consequences-of-unpredictable-scheduling-practices/>. Accord: Heather Boushey and Sarah Jane Glynn, Center for American Progress, *There Are Significant Business Costs in Replacing Employees (Nov. 16, 2012)*, available at <https://www.americanprogress.org/issues/economy/reports/2012/11/16/44464/there-are-significant-business-costs-to-replacing-employees/>.

⁵¹ Lauren Weber, “One Reason Wal-Mart Is Raising Pay: Turnover,” *The Wall Street Journal*, Feb. 19, 2015, available at <http://blogs.wsj.com/atwork/2015/02/19/one-reason-wal-mart-is-raising-pay-turnover/>.

According to the Center for Economic and Policy Research, there exists “[a] strong theoretical and empirical basis . . . for the idea that [wage increases] give[] new incentives to employers to undertake additional productivity-improving practices.”⁵² In the homecare context, a study examining the impact on workforce retention of nearly doubling the wages for homecare workers in San Francisco County over a 52-month period found that “the annual retention rate of new providers rose from 39 percent to 74 percent following significant wage and benefit increases and that a \$1 increase in the wage rate from \$8 an hour . . . would increase retention by 17 percentage points.”⁵³

CONCLUSION

For the foregoing reasons, *Amici Curiae* respectfully request that this Court uphold the validity of the Ordinance in the interest of public policy and for the legal reasons articulated by Defendant City of Minneapolis.

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⁵² *Id.*

⁵³ Howes, C. (2005), *Living Wages and Retention of Homecare Workers in San Francisco*. *Industrial Relations: A Journal of Economy and Society*, 44: 139–163.

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CERTIFICATION OF LENGTH

Pursuant to Rule 132.01 subd. 3, I hereby certify that this brief is produced with a proportional 13 point font, was prepared using Microsoft Word 2013, does not exceed 20 pages in length, and contains 5,019 words.

/s/ Bruce D. Nestor_____