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Page 1 of 2

Attorney General Steve Marshall Files Brief Arguing Alabama’s Minimum-Wage Law Is Ordinary Economic Legislation, Not Purposeful Racial Discrimination

(MONTGOMERY) — Attorney General Steve Marshall filed a brief last week with the U.S. Court of Appeals for the 11th Circuit, responding to plaintiffs who alleged that legislators enacted a statewide minimum-wage law because they wanted to harm African Americans.

In 2016, the Alabama Legislature passed a law that sets a uniform minimum wage for the state, which means that any local law setting a higher wage is preempted. At least 22 other states have enacted similar laws. But Alabama’s law became the first to be attacked in court as racist. Plaintiffs argued that this legislation was an attempt to “perpetuate ... political white supremacy” because (1) it preempted a Birmingham ordinance that had set a higher minimum wage, (2) Birmingham is majority-black, and (3) white legislators voted for the law while black legislators opposed it.

The federal district court dismissed the novel suit, but a three-judge panel of the 11th Circuit reversed, holding that plaintiffs’ racial discrimination claims could move forward. The Attorney General then asked the entire twelve-judge 11th Circuit to rehear the case, and the court agreed.

The Attorney General’s brief argues that the plaintiffs have failed to establish intentional racial discrimination. Many legislators and businesses argued that the state law was needed to promote economic stability and job growth, and there was no evidence that anyone acted for racist reasons. The most plaintiffs have alleged was that a legislator, who plaintiffs noted was “a white senator from ... Mountain Brook,” stated that he thought “increases in the minimum wage especially hurt young people from poorer families.” But that is a common economic policy debate, not evidence of racism. In sum, the Attorney General argued that more is needed to back up such serious charges of racism.

The Attorney General also argued that the case should be dismissed because plaintiffs sued the wrong defendants. Plaintiffs allege that they have been harmed because their employers are not paying what they are entitled to under the Birmingham ordinance. That dispute can be litigated between employees and employers, not between employees and the Attorney General, who cannot force employers to boost wages.

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A large coalition of states, as well as business and public interest groups, filed briefs in support of Alabama. The State of Texas filed a brief that was joined by Arkansas, Georgia, Indiana, Louisiana, and Missouri, in which the States argued that plaintiffs' claims were not plausible. The Alabama Retail Association, Business Council of Alabama, Alabama Grocers Association, Alabama Restaurant & Hospitality Association, Asian American Hotel Owners Association, National Federation of Independent Business, and Restaurant Law Center argued that Alabama's law was legitimate economic legislation. And the Center for Individual Rights filed a brief arguing that the case should be dismissed.

Plaintiffs have until May 15 to file reply briefs. The en banc 11th Circuit will hear oral arguments in the case the week of June 24, 2019.

[A copy of the State's brief is linked here](#)