



On March 30, 2020, the Federal District Court for the Eastern District of Texas issued an order enjoining the enforcement of the Dallas Paid Sick Leave Ordinance.

For more information, see the summary below provided by Fred Wilshusen of Thomas, Feldman & Wilshusen LLP.

District Court Enjoins Enforcement of the Dallas Paid Sick Leave Ordinance

Yesterday, the United States District Court for the Eastern District of Texas ("Court") enjoined enforcement of the Dallas Paid Sick Leave Ordinance ("Ordinance") which mandated paid sick leave for qualifying employees who performed work in Dallas. The Ordinance provided paid sick leave of up to sixty-four hours per year for employees with "medium or large employers" and up to forty-eight hours with "small employers." The Ordinance also contained various record keeping obligations and enforcement provisions that the Court examined.

The basis for granting the preliminary injunction was that the Texas Minimum Wage Act ("TMWA") preempted the Ordinance. The Court relied heavily on the reasoning of the Austin Court of Appeals which enjoined the enforcement of a similar ordinance passed by the City of Austin on the basis of preemption.

The Court held that the Dallas Ordinance established a wage requirement that was inconsistent with the TMWA. The Court reasoned that an employee who qualified and used the paid sick leave provisions would effectively make a higher wage for the hours that they worked than employees who did not use the sick leave provisions. Under the Texas Constitution, an ordinance cannot contain provisions inconsistent with the Texas Constitution or the general laws passed by the Legislature. Because the Ordinance provided additional wage requirements above those in the TMWA, it was found to be inconsistent and preempted.

The plaintiffs challenging the Ordinance also brought the same constitutional claims asserted but not ruled on in Austin. Unlike the state court in Austin, the United States District Court had to rule on the constitutional issues to establish its supplemental jurisdiction over the state law preemption claim.

The plaintiffs argued that the Ordinance gave preferred treatment to union companies over nonunion companies and violated their right of association under the First Amendment and their equal protection rights under the Fourteenth Amendment. The Court rejected and dismissed these arguments.

In addition, the plaintiffs challenged the Ordinance under the Fourth Amendment because of the subpoena and search powers granted under the Ordinance for purposes of enforcement. The plaintiffs claimed that such enforcement powers did not provide for appropriate pre-compliance review for such subpoenas and searches and therefore violated their rights. The Court held that this argument had potential validity and refused to dismiss it.

It is unknown how the Texas Supreme Court will rule on the appeal of the Austin Court's injunction regarding the City of Austin ordinance or what the next steps in the United States District Court will be. It is also unknown whether the cities will continue to tailor their ordinances to try and avoid the challenges that have been upheld under their current versions. Therefore, the Court's rulings on the constitutional issues advanced give some guidance on how those arguments may be handled in the future.