

STATE OF NEW MEXICO
COUNTY OF SANTA FE
FIRST JUDICIAL DISTRICT COURT

NEW MEXICANS FOR FREE ENTERPRISE,
THE SANTA FE CHAMBER OF COMMERCE,
MARK KIFFIN, MARK C. MILLER, MAURICE ZECK,
PEPPERS FOOD & BEVERAGE CO., INC.,
PRANZO, ZUMA CORPORATION,
ROBBIE DAY, JOSEPH HOBACK, and
PINON GRILL AT THE HILTON OF SANTA FE,

Plaintiffs,

v.

CITY OF SANTA FE,
Defendant,

Case No. D-101-CV-2003-00468

Memorandum of Amici Curiae Santa Fe Partnership for Social Justice, Hispanic Roundtable of New Mexico, Somos Un Pueblo Unido, Mexican American Legal Defense & Education Fund, New Mexico Federation of Labor, AFL-CIO, National Education Association-New Mexico, Democratic Party of Santa Fe County, Green Party of Santa Fe County, Coalition for Equality in New Mexico, Hunger-Poverty Network of Northern New Mexico, New Mexico Human Needs Coordinating Council, and New Mexico Public Health Association

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STATEMENT OF INTEREST OF AMICI

Amici are a diverse array of community, religious, civic, labor, immigrants' rights, civil rights and advocacy organizations from Santa Fe and across New Mexico and the nation. They share a common interest in ensuring that the Santa Fe Living Wage Ordinance is upheld and implemented in order to ensure decent wages and family-supporting jobs for Santa Fe's low-income workers.

The Santa Fe Partnership for Social Justice is a partnership of local Roman Catholic parishes and other organizations committed to combating poverty and addressing issues of social justice in Santa Fe.

The Hispanic Roundtable of New Mexico is a coalition of over 40 Hispanic community organizations from across New Mexico dedicated to ensuring that members of the Hispanic community have the opportunity to participate fully in the state's civic and economic life.

Somos Un Pueblo Unido is an advocacy group for the rights of the immigrant community in Santa Fe and northern New Mexico.

The Mexican American Legal Defense & Educational Fund is a national civil rights and legal advocacy organization dedicated to ensuring that Mexican Americans and members of all of our nation's Latino communities have the opportunity to participate fully in American civic and economic life.

The New Mexico Federation of Labor, AFL-CIO is the umbrella organization of New Mexico's labor unions and the 58,000 working New Mexicans whom they represent. It is the state affiliate of the national AFL-CIO, the umbrella organization for 13 million union members across the United States.

The National Education Association - New Mexico represents more than 6,000 teachers and educational employees in New Mexico and is the state affiliate of the national NEA, with more than 2.5 million members across the United States.

The Democratic Party of Santa Fe County is a political organization that supports candidates and issues in local, state and national elections. It is affiliated with the state and national Democratic Party.

The Green Party of Santa Fe County is a political organization that supports candidates and issues in local, state and national elections. It is affiliated with the state and national Green Party.

The Coalition for Equality in New Mexico is a coalition of sixty-two gay, lesbian, bisexual, transgender and allied organizations from across New Mexico.

The Hunger-Poverty Network of Northern New Mexico is an advocacy group that promotes policies to combat hunger and contribute to the economic well-being of all persons in northern New Mexico.

The New Mexico Human Needs Coordinating Council is a statewide organization of individuals and community groups that advocate for public policies to expand access to basic support and economic opportunity for all New Mexicans.

The New Mexico Public Health Association is an organization representing public health physicians and other public health professionals throughout New Mexico.

SUMMARY OF ARGUMENT

As a legal matter, it is not relevant that the Santa Fe Living Wage Ordinance reflects sound and compelling public policy and that the Santa Fe community and the City Council considered extensive public testimony and economic evidence for more than a year before ultimately enacting the law in February 2003. As explained in the City of Santa Fe's motion for summary judgment, regardless of the policy wisdom of the ordinance or the evidentiary record supporting it, Santa Fe's living wage law is a legally valid and appropriate exercise of the city's powers under the constitution and laws of New Mexico and fully complies with all requirements of the state and federal constitutions.

Nonetheless, amici — a diverse array of community, religious, civic, labor, immigrants' rights, civil rights and advocacy organizations concerned about the well-being of low-income Santa Feans — submit this memorandum to underscore the that living wage ordinance does, in fact, reflect sound and compelling public policy and is supported by far more than the mere "rational basis" required by law.

Low-income working families in Santa Fe face real hardship in light of the region's high cost of living and the erosion of the federal minimum wage to the point that it no longer ensures a minimally decent standard of living for working people. Responding to these urgent needs, the City of Santa Fe has joined scores of cities across the country in enacting a living wage ordinance to raise pay for low-income workers.

Santa Fe's decision, which was made after more than a year of extensive research, hearings, and community consultation, is supported by the best economic evidence. According to economic research over the past decade by the nation's most internationally respected experts on low-wage labor markets, higher minimum wages raise living standards for low-income workers without risking significant job losses or other adverse consequences.

For these and other reasons, across the nation, a broad array of civic, religious, anti-poverty, immigrants' rights, civil rights, labor and political groups have endorsed living wage laws as elements of a sound and just public policy. The twelve groups submitting this amicus memorandum are representative of the more than 1,500 local residents and major civic groups in Santa Fe and across New Mexico that came together to support Santa Fe's decision to enact a living wage ordinance to help local working families help themselves.

ARGUMENT

I. Santa Fe's Living Wage Ordinance Is an Appropriate Measure for Expanding Access to Family-Supporting Jobs for Working Santa Feans and Fighting Santa Fe's Growing Economic Inequality

In recent years, Santa Fe's working families have faced a deepening economic crisis. An escalating cost of living and substantial erosion in the value of the federal minimum wage have left low-income Santa Feans increasingly unable to meet their families' basic needs. After receiving extensive public input for nearly two years, our community has concluded that expanding our city living wage ordinance to require Santa Fe's larger employers to pay their workers at least \$8.50 per hour is an appropriate and important step for addressing this crisis.

A. In Santa Fe and Many American Communities, the High Cost of Basic Necessities Is Causing Serious Economic Hardship for the Working Poor and Their Families

In Santa Fe and many American communities, low-income working families are facing rising costs of basic necessities and a growing shortage of jobs that pay a living wage. Nationally, the costs of housing, healthcare and child care for working families have risen dramatically over the past twenty years. But pay levels for workers in the bottom half of the income distribution have been stagnant and, particularly for men, have actually eroded in real terms during much of the past three decades.[1]

The crisis of the working poor is even more pronounced in Santa Fe. In our community, working families face a cost of living 18% of above the national average, including a dire shortage of affordable housing.[2] A recent study by the Economic Policy Institute found that in order to meet basic needs of housing, food, healthcare, childcare and transportation, a working parent with one child in Santa Fe needed at least \$28,062, and a family of two parents with two children at least \$38,227.[3] The figures would be roughly 10% higher today, since these calculations were based on costs in 1999.[4]

Yet average wages in Santa Fe lag 23% below the national average.[5] As a result, close to 40% of working families have incomes that fall below these basic needs levels.[6]

B. The Erosion of the Federal Minimum Wage in Recent Decades Has Harmed the Working Poor

A significant part of the problem is the federal minimum wage. Starting in the mid-1970's, Congress began to allow the real value of the federal minimum wage to erode substantially. If the 1968 federal minimum wage of \$1.60 per hour had been updated to keep pace with inflation, it would be worth approximately \$8.45 per hour today in 2003 dollars.[7] Instead it stands at just \$5.15 per hour — 39% less than its real value in 1968. As a consequence, a full-time minimum wage worker earns just \$10,712 per year — not nearly enough to meet basic needs for even one person, let alone any children, particularly in a community as expensive as Santa Fe. The low value of the federal minimum wage has contributed to the ballooning of low-wage jobs in our economy, roughly one-quarter of all jobs in the United States paying \$8.50 per hour or less.[8]

C. In Response, Cities, Counties and States Are Stepping Forward to Enact Higher Minimum Wages to Help Local Families Meet Basic Needs

Faced with the eroding value of the minimum wage and lack of action at the federal level, in recent years, cities, counties and states across the nation have stepped forward to enact higher minimum wages to help local families meet basic needs.

For nearly a century, federal, state and local governments in the United States have shared concurrent responsibility for ensuring decent working and living standards for our nation's low-wage workforce. Historically, the earliest regulations to ensure decent wages for the working poor were adopted at the state and local levels.[9] When Congress finally adopted a national minimum wage in 1938 with the Fair Labor Standards Act ("FLSA") — President Franklin Roosevelt's last major domestic reform of the New Deal — it expressly elected to preserve a multi-tiered regulatory system under which state and local governments retain the power to enact more protective wage requirements. See FLSA § 18, 52 Stat. 1069, 29 U.S.C. § 218(a) ("No provision of this chapter or of any order thereunder shall excuse noncompliance with any Federal or State law or municipal ordinance establishing a minimum wage higher than the minimum wage established under this chapter.").

Especially in recent decades as Congress has allowed the real value of the federal minimum wage to erode, state and local governments have increasingly found themselves forced to step in to ensure more adequate wage protections to help poor families support themselves. Over that period, twelve states have raised their minimum wages above the federal level.[10] And at the local level, cities and counties have increasingly chosen to exercise their regulatory authority to adopt local laws providing greater wage protections for low-wage workers. To date, more than one hundred cities and counties have enacted laws establishing wage standards higher than the current federal minimum wage of \$5.15 per hour.[11]

The laws comprising this recent generation of local-level wage regulation have generally been labeled “living wage” laws in order to communicate that the higher wage levels required – typically from \$8.00 to \$12.00 per hour – are closer (though still not enough) to the pay that full-time workers need in order to support themselves and one or two children at a subsistence level.

This recent generation of municipal-level living wage laws has taken a variety of approaches in extending wage requirements to different categories of employers. Many cities have focused on firms that receive significant taxpayer-funded benefits – for example, city service contracts, city economic development subsidies, the opportunity to lease city property, or the benefits of operating concessions at city-controlled facilities such as stadiums, convention centers, or airports. Cities have enacted legislation requiring that, in exchange for these significant publicly subsidized benefits, employers must pay their workers a living wage.

Other cities have extended local wage laws more broadly to cover most or all private employers in the city. These broader wage ordinances offer a way to help more struggling families. Yet because coverage is not linked to city contracts – where the city’s purchasing costs may rise somewhat because of the wage requirement – they do not involve new costs for cash-strapped city budgets.

Various cities across the United States such as Baltimore[12] and Washington, D.C.[13] have had such broad local wage ordinances on the books for years. Some state minimum wage laws have also established higher minimum wages for cities, recognizing that higher costs of living in urban areas necessitate higher minimum wages to ensure that working families can support themselves.[14]

In recent years, more and more cities that began by enacting living wage laws for city contractors have gone on to explore broader wage laws. This approach has proven particularly attractive to cities like Santa Fe with tourism-based economies where service workers such as hotel room cleaners and dishwashers often struggle with exceptionally high costs of living and scarce affordable housing.

D. After Careful Review and Public Input, Santa Fe Enacted Its Citywide Living Wage Ordinance with Broad Public Support

Recognizing the consensus among Santa Feans that something had to be done to address the widening economic inequality in their community, the Santa Fe City Council began a nearly two-year process of crafting a living wage ordinance tailored to local needs.

In 2002, Santa Fe lawmakers enacted the first phase of the city's living wage ordinance by establishing a requirement that businesses receiving large contracts or grants of financial assistance from the city must pay a minimum wage of at least \$8.50 per hour. However, Santa Fe's residents and the City Council recognized that they needed to do more. As initially enacted, the living wage law would have helped only a few hundred local low-wage workers, since relatively few local businesses receive service contracts or taxpayer-funded economic development benefits.

Persuaded that it made sense to extend the ordinance to ask more of Santa Fe's private employers to pay a living wage, the City Council enacted a resolution accompanying the initial living wage ordinance in February 2002 establishing a "Living Wage Roundtable," which it charged with the responsibility to "explore and develop a proposed amendment to the city code that would require a citywide living wage."^[15]

The Living Wage Roundtable began a six-month process of extensive research, assessment and public input, which led to the crafting, introduction and enactment of the citywide living wage ordinance in February 2003. The Roundtable, which was composed of members of the City Council and representatives of local businesses and workers, spent months reviewing economic data and investigating policy options. Based on that review, the Roundtable issued a Majority Report recommending that the initial living wage be extended to apply as well to all larger businesses operating in Santa Fe. The Roundtable members were not able to reach consensus, and so a dissenting group of members issued a Minority Report that called for further study before any action to extend the living wage ordinance was taken.

In January 2003, the City Council introduced legislation for a new, extended living wage ordinance based on the recommendations contained in the Roundtable's Majority Report. The City Council and representatives of all segments of the Santa Fe community considered and debated the proposal for nearly two months during January and February 2003. The City Council held a series of hearings at which it received and considered the economic impact of the proposal, and heard extensive public testimony. During that process, more than 1,500 Santa Fe residents, civic organizations, community groups, churches, unions and business owners endorsed the proposal.

Sensitive to the concerns of small businesses and other economically fragile employers, the Council carefully crafted and refined the proposal so as to exempt firms with fewer than 25 workers, persons employed by family members, certain Medicaid-funded healthcare providers for the elderly and disabled, and certain employees such as work-study students. See Santa Fe Living Wage Ordinance (“Ordinance”) §§ 28-1.5(c), 28-1.5(a)(4). So as to avoid the risk that the relatively few employers that provide health or child care benefits to their low-wage workers might cut benefits in order to raise pay, the ordinance allows the value of any employer-provided health or child care benefits to be credited towards the required living wage. See Ordinance § 28-1.5(b).

And to enable the City to monitor the impact of the living wage ordinance, determine whether it results in any unforeseen problems, and assess whether any changes or improvements may be appropriate, the City Council amended the ordinance to provide for a review and evaluation process.[16] By requiring the collection of data on Santa Fe business and employment conditions before the living wage takes effect, and then commissioning a study of its impact after the first year or so, Santa Fe’s lawmakers are prudently ensuring that they have the information necessary to continue making informed decisions about what public policy makes sense for their community.

On February 27, the City Council voted seven-to-one to enact the new living wage ordinance. When it takes effect on January 1, 2004, it will ensure that businesses employing 25 or more persons — a group which represents roughly 9% of all businesses in Santa Fe but which employs 60% of all workers in the city — pay their workers at least \$8.50 per hour. Approximately equivalent to what the federal minimum wage would be worth today if its value had not been allowed to erode over the past 30 years, the Santa Fe Living Wage Ordinance will help thousands of working Santa Feans in their struggle to support themselves and their families.

II. Economic Research Indicates That Minimum Wage Laws Raise Living Standards for Low-Income Workers Without Risking Job Loss

Informing Santa Fe’s decision to enact the living wage ordinance and the national trend towards more robust regulation of wages at the state and local levels have been important new research findings concerning the economic impact of increases in minimum wage rates. These findings indicate that it is feasible for many low-wage employers to pay higher wage levels without a risk of significant negative effects such as job loss.

A. Recent Economic Research Has Led the Nation's Leading Economists to Endorse Raising the Minimum Wage

Over the past decade, a mounting body of empirical economic research has found that increases in the minimum wage — even increases adopted during recessionary periods such as 1990 and 1991 — have resulted in no discernable job losses. This research began with the pioneering work of David Card and Alan Krueger, who are recognized internationally as the top economists doing statistical studies of labor markets. Card and Krueger's 1995 book, *Myth and Measurement: The New Economics of the Minimum Wage* (Princeton University Press), and their related research has clarified researchers' understanding of the degree to which minimum wage increases lead employers to cut jobs.

For their research, Card was awarded the John Bates Clark award from the American Economics Association in 1995 — the so-called “junior Nobel Prize” in economics — as the outstanding U.S. economist under the age of 40. Krueger is the leading scholar in the labor economics program at Princeton University and Card, after leaving Princeton, heads a similar program at the University of California at Berkeley. These are the top centers for research on labor economics in the United States.

Card and Krueger examined the impact on fast food jobs — one of the nation's most low-wage and price sensitive industries — when New Jersey raised its state minimum wage in 1992, while neighboring Pennsylvania did not. Their survey of employers found that the minimum wage increase resulted in no discernable reduction in employment at restaurants on the New Jersey side of the state line.[17] Subsequent research by Card and Krueger examining the impact of the 1991 and 1992 federal minimum wage increases confirmed these findings.[18] Later studies examining the impact of other recent state or federal minimum wage increases have yielded similar findings.[19]

Such research has prompted many leading American economists to adjust their analyses of the economics of the minimum wage. For example, Nobel laureate Robert Solow of the Massachusetts Institute of Technology explains, “The main thing about the research is that the evidence of job loss is weak. And the fact that the evidence is weak suggests that the impact on jobs is small.”[20] In the words of Richard Freeman of Harvard University, perhaps the country's foremost labor economist, “the entire literature on the minimum wage [now agrees] that employment losses are modest.”[21] The eminent Harvard economist, John Kenneth Galbraith, has commented even more pointedly, “That [an adequate minimum wage] will diminish employment opportunity, the argument most commonly made in opposition, may be dismissed out of hand, for that is, invariably,

the special plea of those who do not wish to pay the wage, and it is without empirical support.”[22]

This body of research has demonstrated that employer demand for low-wage labor is less price-sensitive than some economists had previously believed. Economists are continuing to assess how the higher labor costs associated with raising the minimum wage are absorbed. A portion of the labor costs appear to be passed on in the form of slightly higher consumer prices for services supplied by low-wage workers – for example, restaurant meals and hotel rooms[23] – while some of the costs appear to come out of modestly trimmed employer profit margins.[24]

B. Santa Fe Carefully Considered the Economic Evidence in Fashioning Its Living Wage Ordinance

In the course of fashioning its living wage ordinance, Santa Fe consulted leading economic experts and weighed a range of economic testimony submitted by both supporters and opponents of the proposal. From that review, city leaders concluded that the best economic evidence indicated that a citywide living wage would provide an effective tool for helping a significant number of struggling Santa Feans and was unlikely to lead to significant job loss.

Among others, the City Council was advised by Dr. Samuel Bowles of the Santa Fe Institute, Dr. Robert Pollin of the University of Massachusetts at Amherst, and Dr. David Macpherson of Florida State University.

Dr. Samuel Bowles. Dr. Bowles, the Director of the Economics Program at the Santa Fe Institute and an emeritus professor of economics who has taught at Harvard University and the University of Massachusetts, submitted written and oral testimony to the City Council. See Samuel Bowles, Testimony on the Economic Impact of an Increase in the Minimum Wage (Before the Finance Committee of the Santa Fe City Council, Feb. 17, 2003), Ex. W to Defendant City of Santa Fe’s Motion for Summary Judgment.

Dr. Bowles confirmed that David Card and Alan Krueger are recognized internationally as the top economists doing statistical studies of labor markets, and that their minimum wage research has persuaded the nation’s leading economists that the job loss effects of minimum wage increases are very modest. Based on Card and Krueger’s research, Dr. Bowles projected that: (1) the proposed Santa Fe living wage was unlikely to result in job losses; (2) hotels and restaurants in the city would be the businesses affected most by a living wage requirement, since they employ the largest concentrations of low-wage workers; (3) the increased labor costs that would result from the minimum wage would instead likely be accommodated by

modest increases in the prices charged by affected businesses; and (4) the modest price increases would be unlikely to result in a loss of customers, most of whom are out-of-town tourists whose decisions whether to visit Santa Fe and to patronize local hotels and restaurants are unlikely to be affected much by marginal price changes. *Id.* at 2, 4-5.

Dr. Robert Pollin. Dr. Robert Pollin, professor of economics at the University of Massachusetts at Amherst, also submitted oral and written testimony to the City Council. See Robert Pollin, Testimony on Proposed Santa Fe, New Mexico Living Wage Ordinance (Before the Santa Fe City Council, Feb. 26, 2003), Ex. Y to Defendant City of Santa Fe's Motion for Summary Judgment. Dr. Pollin is a leading national researcher on living wage laws and has conducted in depth studies of the projected effects of similar private sector living wage laws that had been considered or adopted by two other cities in the United States — New Orleans and Santa Monica. Dr. Pollin testified regarding: (1) the characteristics of the workers who would receive a raise under the proposed extension of the Santa Fe living wage ordinance; and (2) how the affected businesses would likely respond to the increased costs.

Dr. Pollin found that the minimum wage workers who would be helped by the proposed ordinance would be overwhelmingly (89%) adults, predominantly (57%) Hispanic, and mostly living in families where the low-wage worker contributes a significant share (60% on average) of the family's income. He found that 60% of Santa Fe households with low-wage workers currently cannot meet basic family economic needs and would benefit substantially from the proposed minimum wage increase. *Id.* at 3-4.

As for the impact on affected businesses, Dr. Pollin concluded that (1) the research by Card and Krueger and other economic literature indicate that employers would be unlikely to cut jobs in response to a private sector living wage in Santa Fe; (2) that the industries likely to see the most significant cost increases would be hotels and restaurants in light of the concentrations of low-wage workers in those sectors; (3) that most restaurants and hotels cater to a consumer base of out-of-town tourists and can reasonably pass on much of the increased cost in the form of modest price increases without risk of losing business; and (4) that few affected businesses can be expected to relocate outside of Santa Fe to avoid the living wage, because those employing significant numbers of low-wage workers are overwhelmingly concentrated in the hotel, restaurant and other service industries that benefit substantially from doing business in Santa Fe, and would lose much of their clientele were they to leave. *Id.* at 6-8.

This final point is significant because, even without job losses, business flight from Santa Fe could harm the economy and reduce the benefits of a citywide living wage. An extensive analysis of this question, conducted by Dr. Pollin and a team of his researchers in reviewing a similar proposal in New Orleans, found that the risk of firm relocation is low because of the nature of the low-wage jobs affected by a

citywide living wage. Most low-wage jobs involve the provision of services — restaurant, hotel, janitorial, and home healthcare services, for example — that must be performed at a particular location. The number of businesses affected by a minimum wage that would incur more than moderate cost increases and that involve services not substantially dependent on their city location are exceedingly small. Id. at 8.[25]

Dr. David Macpherson. The Santa Fe Chamber of Commerce also submitted to the City Council a report by Dr. David A. Macpherson, professor of economics at Florida State University, which was prepared for the Employment Policies Institute — a business-funded research center that generally opposes minimum wages. See David A. Macpherson, *The Effects of the Proposed Santa Fe Minimum Wage Increase* (Employment Policies Institute Feb. 2003), Ex. Y to Defendant City of Santa Fe’s Motion for Summary Judgment.

Dr. Macpherson’s report agreed with Dr. Pollin’s analysis of the basic demographics of the Santa Fe workers that would receive a raise under a citywide living wage. He found that those affected would be overwhelmingly adults (83%), predominantly Hispanic (64%) and from families with far lower than average family incomes (an average family income of \$33,770 for affected workers versus \$59,709 for Santa Fe as a whole). Id. at 2.

In addition, Dr. Macpherson projected that the living wage ordinance would result in 154 workers being laid off by Santa Fe businesses. However, Dr. Macpherson based this projection on a presumed job loss rate (technically, a “labor demand elasticity”) that is directly refuted by the internationally respected Card and Krueger minimum wage research. Instead, Dr. Macpherson relied on restaurant-industry supported research that has been widely criticized as methodologically biased and not reliable. See Jeff Chapman, *Behind the Crystal Ball: A critique of the Employment Policies Institute’s analysis of minimum wage proposals* (Economic Policy Institute 2003) (attached as Appendix) (explaining that Dr. Macpherson’s conclusions are based entirely on restaurant-industry supported research that is widely criticized as methodologically biased and not reliable); see also Samuel Bowles, *Testimony on the Economic Impact of an Increase in the Minimum Wage*, supra page 15, at 3. Because of this fundamental flaw in Dr. Macpherson’s analysis, the Council appropriately did not accord it much weight.

After their extensive review of the economic evidence, lawmakers decided that a citywide living wage made sense for Santa Fe, offering significant benefits for the city’s working families and manageable costs for affected businesses. Mindful, however, of their responsibility for safeguarding the city’s economic well-being, the City Council built careful monitoring and evaluation procedures into the living wage ordinance to ensure that they would be able to assess the effects of the new policy and be prepared to respond to any problems.

III. Living Wage Laws Have Been Endorsed as Elements of a Sound and Just Public Policy by a Broad Array of Civic, Religious, Anti-Poverty, Immigrants' Rights, Civil Rights, Labor and Political Groups in New Mexico and Nationally

Santa Fe's living wage ordinance and the broader movement by other communities to adopt living wage policies have won the strong endorsement of a wide range of civic organizations in New Mexico and across the nation. Prominent among them have been representatives of the faith community, anti-poverty groups, Latino community organizations, immigrants' rights groups, civil rights groups, labor organizations, and political parties. This diverse array of supporters speaks to both the depth of concern about growing economic inequality and the conviction that a more adequate minimum wage is necessary to help New Mexico's cities build strong economies that will ensure family-supporting jobs and real opportunity for all New Mexicans.

Immigrants' Rights and Latino Community Groups have strongly supported making the minimum wage a living wage. These include the Hispanic Roundtable of New Mexico, a coalition of over 40 Hispanic community organizations from across New Mexico; Somos Un Pueblo Unido, an advocacy group for the rights of the immigrant community in Santa Fe and northern New Mexico; and the Mexican American Legal Defense & Educational Fund, the nation's leading Latino civil rights and legal advocacy organization. Both in New Mexico and nationally, Latino workers are disproportionately concentrated in the lowest paying jobs, and face significant hardship in supporting their families on the eroded federal minimum wage. These and other Latino community groups recognize the importance of a more adequate minimum wage for ensuring that Mexican Americans and members of all of our nation's Latino communities have the opportunity to participate fully in American civic and economic life.

Anti-Poverty and Public Health Groups have similarly endorsed living wage laws as important elements of a public policy that allows low-income families and workers to help themselves. Supporters include the Hunger-Poverty Network of Northern New Mexico, a coalition of groups that promotes responses to hunger and poverty in the region; the New Mexico Human Needs Coordinating Council, a statewide alliance of individuals and community groups that advocates for the basic needs of all New Mexicans; and the New Mexico Public Health Association, the professional organization of the state's public health physicians and other public health professionals. Many local physicians, health providers, and other public health groups spoke in support of the Santa Fe Living Wage Ordinance before the City Council, and/or signed an advertisement in the Santa Fe New Mexican supporting it. These included Dr. Michael J. Adee, Dr. Pam Burnham, Concerned Citizens for

Nuclear Safety, Dr. Erica Elliot, Dr. Marvin Godner, Dr. Bruce Gollub, Dr. Michael Gregory, Dr. Valerie Gremillion, Dr. Matt Kelly, Dr. Paul Kovnat, Dr. Leslie LaKind, McGee Therapy Services, Dr. Leah Morton, Dr. Jeffrey Ross, Dr. Justina Trott and Women's Health Services of Santa Fe.

Other Civil Rights and Community Groups including the Association of Community Organizations for Reform Now (ACORN), which signed the New Mexican ad, and the Coalition for Equality in New Mexico, a coalition of sixty-two gay, lesbian, bisexual, transgender and allied organizations from across the state, have supported Santa Fe's living wage, recognizing its importance as a tool for promoting economic opportunity for all.

Labor Unions and Advocates for Working Families have been leaders in the movement for a living wage. Santa Fe's ordinance is supported by the New Mexico Federation of Labor, AFL-CIO, the umbrella organization of New Mexico's labor unions and the more than 58,000 working New Mexicans whom they represent, as well as the National Education Association-New Mexico, which represents more than 6,000 teachers and educational employees in New Mexico. New Mexico state and local affiliates of the AFL-CIO that spoke before the City Council and/or signed the New Mexican ad include the American Federation of Government Employees, the American Federation of State, County and Municipal Employees (AFSCME), the New Mexico Building and Construction Trades Council, the Communications Workers of America, the New Mexico Federation of Educational Employees, the Northern New Mexico Central Labor Council, the International Brotherhood of Electrical Workers, the Ironworkers, the Laborer's International Union of North America, the Sheet Metal Workers International Union, the National Union of Hospital and Health Care Employees, the United Association of Plumbers & Pipefitters, the United Food and Commercial Workers, and the Union of Professional and Technical Employees. Nationally, the AFL-CIO and major American unions ranging from the Service Employees International Union to the American Federation of State, County and Municipal Employees have supported living wage laws, as have non-union advocates for low-income workers such as the National Interfaith Committee for Worker Justice.

Political Parties and elected officials from across New Mexico have supported the Santa Fe community's decision to enact a living wage for working families either by speaking in favor of the ordinance or by signing the New Mexican ad. These include, among others, the Democratic Party of Santa Fe County; the Green Party of Santa Fe County; State Representatives Gail Beam, Max Coll, Ray Ruiz, and Mimi Stewart; State Senators Richard Martinez, Cisco McSorley, and Nancy Rodriguez; Sheriff Greg Solano; and Santa Fe School Board Superintendent Gloria Rendon and then-Board Chair Marcy Litzenberg.

Religious Groups in New Mexico and nationally have been leading supporters of Santa Fe's and other living wage laws, believing that an adequate minimum wage is essential to an economic system that ensures fairness and dignity for working

families. Locally, the Santa Fe Partnership for Social Justice, a partnership of Roman Catholic parishes and other organizations committed to combating poverty and promoting social justice in Santa Fe, is a strong supporter of the Santa Fe ordinance. Other religious community supporters include the St. Vincent De Paul Society of Santa Fe, the Peace and Justice Committee of St. Francis Cathedral, and the Santa Fe Deanery Parish Partnership, which all signed the New Mexican ad and/or spoke in favor of the ordinance before the City Council, as did other local religious leaders including Rev. Holly Beaumont, Brother Jim Brown, Rev. Barbara E. Dua, Rabbi Malka Drucker, Rabbi Leonard Helman, Rev. Jesse Malmed, Rev. David J. McGown, Rev. Richard W. Murphy, Rev. Wanda Ross Padilla, Rabbi Marvin Schwab, Deacon Anthony Trujillo, and Rabbi Nahum Ward-Lev.

Nationally, major Christian and Jewish denominations have been leading supporters of the living wage movement.[26] Major Christian churches and organizations including the National Council of Churches, at least twenty Roman Catholic dioceses in communities ranging from Chicago and Cleveland, to Charlotte and Houston,[27] the United Methodist Church, and the United Church of Christ (a major national association of churches in the Congregational tradition) have all called for living wage legislation.

Similarly, nationally and in states across the country, numerous Jewish denominations and community organizations have actively supported living wage campaigns and laws. These include the Union of American Hebrew Congregations (representing Reform Judaism, America's largest Jewish movement),[28] the Jewish Council for Public Affairs,[29] and numerous congregations and Jewish community organizations across the nation.

Grounded in the social and moral teachings of their traditions,[30] major religious denominations and other faith-based organizations have been outspoken supporters of efforts across the United States to secure living wages for working people.

In a striking consensus, this broad array of community, immigrants' rights, civil rights, anti-poverty, religious, labor and political organizations representing many of the leading grass-roots and institutional voices in civil society have come together to embrace a higher minimum wage as a key element of a sound and just public policy for low-income workers and families.

CONCLUSION

Sound and compelling public policy reasons support Santa Fe's decision to enact its citywide living wage ordinance. In light of the legal arguments presented by defendant the City of Santa Fe, amici respectfully suggest that summary judgment

for the City should be granted and the Santa Fe living wage ordinance should be declared legally valid.

DATED: August 25, 2003

Santa Fe, New Mexico

Respectfully submitted,

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Appendix

Jeff Chapman, Behind the Crystal Ball: A Critique of the Employment Policy Institute's Analysis of Minimum Wage Proposals (Economic Policy Institute 2003)

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this Memorandum of Amici Curiae was mailed this 25th day of August, 2003 by regular first class mail, postage prepaid to the following:

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[1] Lawrence Mishel, Jared Bernstein & Heather Boushey, *The State of Working America, 2002-03*, at 128 Table 2.6, 130 Table 2.7 (Economic Policy Institute 2003) (hereinafter *State of Working America*).

[2] Santa Fe Living Wage Ordinance § 28-1.2(e).

[3] See Heather Boushey, Chauna Brocht, Bethney Gundersen & Jared Bernstein, *Hardships in America: The Real Story of Working Families* at Tables A4.1 & A4.5 (Economic Policy Institute 2001) [hereinafter *Hardships in America*].

[4] According to the federal government, average national inflation between 1999 and 2003 totaled approximately 10%. See U.S. Dep't of Labor, Bureau of Labor Statistics, *Consumer Price Indices* (available at <http://www.bls.gov/cpi/home.htm>).

[5] Santa Fe Living Wage Ordinance § 28-1.2(e).

[6] Hardships in America, *supra* note 3, at 17.

[7] Adjusted for inflation using the U.S. Department of Labor's Consumer Price Index Calculator, the federal minimum wage of \$1.60 per hour in 1968 would be worth \$8.45 in 2003 dollars. See U.S. Dep't of Labor, Bureau of Labor Statistics, Consumer Price Indices, *supra* note 4.

[8] The State of Working America, *supra* note 1, at 128 Table 2.6.

[9] JEROLD WALTMAN, *THE POLITICS OF THE MINIMUM WAGE* 29-30 (2000).

[10] See Jeff Chapman, *States Move on Minimum Wage: Federal inaction forces states to raise wage floor to protect low-wage workers* (Economic Policy Institute, Issue Brief no. 195, June 11, 2003) (available at <http://www.epinet.org>).

[11] As of July 2003, a total of 109 cities and counties had adopted living wage ordinances. See Association of Community Organizations for Reform Now (ACORN) Living Wage Resource Center, *Living Wage Wins* (available at <http://www.livingwagecampaign.org>).

[12] See *Mayor & City Council of Baltimore v. Sitnick*, 254 Md. 303, 255 A.2d 376 (1969) (upholding Baltimore City Minimum Wage Ordinance higher than Maryland and federal minimum wages).

[13] See D.C. Stat. § 32-1001 et seq.

[14] See State of Wisc. Dep't of Workforce Devel., Equal Rts. Div., Labor Standards Bur., *Historical Resume of Minimum Wage Regulations in Wisconsin (1998)* (between 1947 and 1967 Wisconsin state law mandated higher minimum wage for cities) (available at <http://www.dwd.state.wi.us/dwd/publications/236e/LS-39E-P.pdf>).

[15] See Santa Fe City Council Resolution No. 2002-15, Clerk Affidavit, Ex. F at 107, accompanying Defendant City of Santa Fe's Motion for Summary Judgment.

[16] The ordinance provides that the City will (1) gather data on employment and business conditions in the City prior to the ordinance's taking effect; (2) retain an independent third party researcher to evaluate the ordinance's impact once it has been in effect for some period; and (3) based on that information, conduct a City review of the ordinance's success by 2005. See Ordinance § 28-1.12.

[17] See David Card & Alan Krueger, *Myth and Measurement: The New Economics of the Minimum Wage* (Princeton Univ. Press 1995) (hereinafter *Myth and Measurement*); David Card & Alan Krueger, *Minimum Wages and Employment: A Case Study of the Fast-food Industry in New Jersey and Pennsylvania: Reply*, 90 *Am. Econ. Rev.* No. 5, 1397-1420 (Dec. 2000).

[18] See David Card, *Using Regional Variation in Wages to Measure the Effects of the Federal Minimum Wage*, 46 *Indus. & Lab. Rel. Rev.* 22-37 (1992); see also Jared Bernstein, *Increasing the Minimum Wage: Don't Let the Slowdown Slow It Down* (Economic Policy Institute, Issue Brief, June 11, 2001) (discussing the preceding research findings).

[19] See, e.g., Jared Bernstein & John Schmitt, *Making Work Pay: The Impact of the 1996-97 Minimum Wage Increase* (Economic Policy Institute 1998), discussed in William Spriggs & John Schmitt, *The Minimum Wage, in Reclaiming Prosperity: A Blueprint for Progressive Reform* (Todd Schafer & Jeff Faux eds., 1996); Robert Pollin, Stephanie Luce & Mark Brenner, *Economic Analysis of the New Orleans Minimum Wage Proposal at 22-24* (Univ. of Mass. Political Econ. Research Inst., Research Report no. 1, 1999).

[20] Quoted in Louis Uchitelle, *A Pay Raise's Impact*, *N.Y. Times* at D1 (Jan. 12, 1995).

[21] Quoted in J.W. Mason, *Living Wage Junkonomics*, *City Limits* (May 2002).

[22] John Kenneth Galbraith, *The Good Society* 67 (1996). Indeed, the former Republican Governor of Massachusetts, Paul Cellucci, "admitted that his prior belief — that increasing the minimum wage would hurt the economy — was wrong. He changed his mind after witnessing the continued economic growth in Massachusetts following a previous minimum wage hike in the mid-1990's." Kraut, Klinger & Collins, *Choosing the High Road: Businesses that Pay a Living Wage & Prosper at 8* (Responsible Wealth 2000).

[23] See Robert Pollin, Mark Brenner & Stephanie Luce, *Intended vs. Unintended Consequences: Evaluating the New Orleans Living Wage Proposal at 10-11* (Univ. of Mass. Political Econ. Research Inst., Working Paper no. 9, 2001) (discussing Card & Krueger findings that fast food restaurants increased prices to cover higher wage costs).

[24] See *Myth and Measurement*, *supra* note 17.

[25] See Pollin, Brenner & Luce, *supra* note 23, at 19-20.

[26] Indeed, in the nineteenth century "[r]eligious reformers were the first group of people outside of the labor movement to call for a living wage, beginning with Pope Leo XIII's encyclical of 1891" Lawrence B. Glickman, *A Living Wage: American Workers and the Making of Consumer Society* 134 (1997).

[27] At least seven Catholic dioceses — Los Angeles, Houston, Richmond, Milwaukee, Minneapolis, Portland, and Burlington (Vermont) — were active participants in living wage campaigns. Thirteen more dioceses — Cleveland,

Chicago, San Francisco, Washington D.C., Duluth, Lexington (Kentucky), Albany, Brooklyn, Syracuse, Raleigh, Charlotte, Austin, and San Antonio – formally endorsed and supported living wage legislation.

[28] General Assembly Union of American Hebrew Congregations, Resolution on Living Wage Campaigns, adopted Dec. 15-19, 2002 (available at <http://www.rac.org//issues/issuemwres.html>).

[29] Jewish Council for Public Affairs, Resolution on Living Wage and Low-Income Workers (adopted Feb. 28, 2000) (available at <http://www.jewishpublicaffairs.org/equal/resolutions/low-income-2-28-00.html>).

[30] Among Catholics, Canon Law and Papal teaching have long recognized the moral imperative of a basic wage that is sufficient to maintain a family. See, e.g., Pope Pius XI, Encyclical Letter on Christian Marriage ¶ 117 (Dec. 31, 1930) (“[N]or is it lawful to fix such a scanty wage as will be insufficient for the upkeep of the family in the circumstances in which it is placed.”) (citations omitted). The United Methodist Church’s official statement of basic social principles declares: “Every person has a right to a job at a living wage.” See Social Principles of the United Methodist Church ¶ 163(c) (2000). The Jewish tradition teaches that the organized Jewish community must be active in the effort to build a just society and that, under the Hebrew Bible and Talmudic law, it is unacceptable to pay a worker unconscionably low wages. See, e.g., Deuteronomy 24:14–15 (“The law is designed to protect a worker’s dignity and physical needs.”); Rabbi Mordechai Liebling, The Commandment for a Living Wage (available at <http://www.socialaction.com/1999andearly2000/liebling-livingwage.phtml>).