

Kent Rutter in The Dallas Morning News: Why Austin's Legal Fight Leaves Dallas in Uphill Battle to Save Paid Sick Time Ordinance

August 5, 2019 Kent Rutter

PRACTICES Appellate, Wage and Hour Litigation, Labor and Employment

The Dallas Morning News quoted Haynes Boone Partner [Kent Rutter](#) in an article about the uphill battle Dallas will face following the implementation of a new ordinance that mandates businesses provide paid sick leave to employees.

Here is an excerpt:

But after two companies sued the city last week in federal court, several appellate and employment lawyers interviewed by *The Dallas Morning News* said the city's ordinance now faces an uphill battle for survival in the courts.

That's largely related to the challenges faced by the other two major Texas cities that mandated paid sick leave. A state appeals court already ruled against Austin's law in November 2018. And San Antonio delayed implementation of its own ordinance pending a legal challenge in state court.

Kent Rutter, an appellate lawyer based in Houston, said Dallas should expect a tough road ahead.

"They have a decision from three well-respected judges on the Court of Appeals in Austin ruling that the state law prevents cities from enacting these ordinances," Rutter said. "And that's a difficult hurdle to overcome."

Rutter, who has experience arguing before the Supreme Court on an employment dispute, believes the state's highest civil court will want to take up the case because of its broad impact, relevance to multiple jurisdictions and implications for state preemption.

"Obviously this is an issue of statewide importance," Rutter said. "It affects potentially thousands of businesses and hundreds of thousands of workers. The court is really cognizant of its responsibility to weigh in on issues that are going to affect the lives of many Texans."

But Rutter said that could take a while — maybe even over a year.

While Rutter said he thinks labor has a compelling argument that the paid sick leave doesn't touch wages, the attorneys agreed that the state's conservative Supreme Court will follow the footsteps of the appellate court and rule against Austin's ordinance.

Rutter said the state Supreme Court also has a history of ruling in favor of state laws over municipalities. In another case that relates to preemption, the high court prevented Laredo from enacting an ordinance that banned single-use plastic bags in stores. The vote then was unanimous.

To read the full article, click [here](#).