

COURT OF APPEALS, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203	
District Court, Larimer County, State of Colorado 2013CV31385 Opinion by: Judge Gregory M. Lammons	
<p><b>Defendant-Appellant:</b>  CITY OF FORT COLLINS, COLORADO,</p> <p><b>v.</b></p> <p><b>Plaintiff-Appellee:</b>  COLORADO OIL AND GAS ASSOCIATION.</p>	
<p>Attorney for <i>Amicus Curiae</i>:</p> <p>Geoffrey T. Wilson, #11574  COLORADO MUNICIPAL LEAGUE  1144 Sherman Street  Denver, CO 80203-2207  Phone: (303) 831-6411  Fax: (303) 860-8175  E-mail: <a href="mailto:gwilson@cml.org">gwilson@cml.org</a></p>	<p>▲ COURT USE ONLY ▲</p> <p>Case No: 2014CA1991</p>
<p align="center"><b>MOTION OF THE COLORADO MUNICIPAL LEAGUE FOR LEAVE TO  FILE A BRIEF AS <i>AMICUS CURIAE</i> IN SUPPORT OF THE DEFENDANT-  APPELLANT</b></p>	

Pursuant to RULE 29, C.A.R., the Colorado Municipal League (hereinafter “CML” or “the League”), respectfully moves this Court for permission to file a brief as *amicus curiae* in support of the Appellant, City of Fort Collins (“the City”). In support of this Motion, the League states as follows:

1. Nature of the Colorado Municipal League:

CML was formed in 1923. The League is a non-profit, voluntary association of 267 of the 271 municipalities located throughout the state of Colorado (comprising nearly 99 percent of the total incorporated state population), including all 100 home rule municipalities, 166 of the 171 statutory municipalities and the lone territorial charter city, all municipalities greater than 2,000 in population, the vast majority of those having a population of 2,000 or less, and including every incorporated municipality in Colorado’s “oil patch.”

2. Interest of the League:

The outcome of this appeal has great implications for Colorado’s cities and towns. Participation by the League would provide the Court with a statewide municipal perspective. Recently, concerned citizens in four municipalities (Fort Collins, Broomfield, Lafayette and Longmont) utilized their reserved power to initiate laws by petition placing bans and moratoria on hydraulic fracturing (“fracking”) onto local ballots. *See* COLO. CONST. art. V, § 1; COLO. REV. STAT. §

31-11-101 et seq. (2014). These measures were approved by voters, and each jurisdiction has been sued.

3. Desirability of Applicants' Participation as *amicus*:

CML has been filing briefs as amicus curiae before this court and the Colorado Supreme Court for decades in cases of importance to Colorado municipalities. For example, concerning the division of regulatory jurisdiction between the state and local governments with respect to oil and gas development, CML appeared in *Voss v. Lundvall Bros.*, one of a pair of Colorado Supreme Court decisions issued in 1992 that still provide much of the guidance for courts addressing this issue. *Voss v. Lundvall Bros.*, 830 P.2d 1061, 1069 (Colo. 1992). In the years after *Voss*, the League appeared in several cases before this court in which the direction of the Supreme Court was applied: *Town of Frederick v. N. Am. Res. Co.*, 60 P.3d 758, 767 (Colo. Ct. App. 2002); *Bd. of Cnty. Comm'rs v. BDS Int'l, LLC*, 159 P.3d 773, 785 (Colo. Ct. App. 2006); *Bd. of Cnty. Comm'rs v. Colo. Oil & Gas Conservation Comm'n*, 81 P.3d 1119, 1126 (Colo. Ct. App. 2003). The League, as *amicus*, will provide the Court with a statewide government perspective on the issues presented in the case at bar.

4. The attorneys for the City of Fort Collins have consented to the participation of the League as *amicus curiae*.

5. As permitted by RULE 29, C.A.R., the League is submitting its Brief contemporaneously with the filing of this motion, and within the time permitted for the filing of the Opening Brief of the City.

Respectfully submitted this 6<sup>th</sup> day of February, 2015.

COLORADO MUNICIPAL LEAGUE

/s/ Geoff Wilson

Geoff Wilson, #11574

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing **MOTION OF THE COLORADO MUNICIPAL LEAGUE FOR LEAVE TO FILE A BRIEF AS *AMICUS CURIAE* IN SUPPORT OF THE DEFENDANT-APPELLANT** was electronically filed and served through the E-Filing System, on the 6<sup>th</sup> day of February, 2015, to:

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