COLORADO SUPREME COURT 2 East 14th Ave., Fourth Floor Denver, CO 80203	DATE FILED January 17, 2025 12:30 PM
Colorado Court of Appeals Case No.: 2023CA73 Opinion by Hon. Timothy J. Schutz (Hon. Robert D. Hawthorne, concurring) Dissenting Opinion by Hon. Jerry N. Jones	
Petitioner: Matthew K. Hobbs, v. **Respondents**: City of Salida; Christy Doon, in her official capacity as City of Salida Administrator; and Giant Hornet LLC d/b/a HighSide! Bar and Grill.	
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Brief of *Amici* Notes Live, Inc. d/b/a Venu Holding Corp. and Notes Live Real Estate and Development, LLC In Support of Respondents

Certificate of Compliance

I hereby certify that this brief complies with all requirements of C.A.R. 28, 29 and 32, including all formatting requirements set forth in these rules.

Specifically, the undersigned certifies that: The brief complies with the applicable word limits set forth in C.A.R. 29 in that it contains 4,227 words (less than half of the maximum of 9,500 words permitted for the brief of a principal party). The brief complies with the content and format requirements of C.A.R. 28, 29, and 32.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28, 29 and 32.

Respectfully submitted,

KERN LAW LLC

/s/ Tobin D. Kern

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Identity and Interest of Amici

Amicus Curiae Notes Live, Inc. d/b/a Venu Holding Corp., and Notes Live Real Estate and Development, LLC, together "Venu," are the developers and operators, along with third party AEG Presents, of the Ford Amphitheater in the City of Colorado Springs ("City"). The venue is a $90 million, 8,000 seat outdoor amphitheater that opened just last August.

Construction of the Ford Amphitheater was completed by Venu in 2024, after an extensive two-year application, planning, and public hearing process required by the City. Construction, and now operation, of the amphitheater are governed by a Planned Use Development plan (PUD) required by the City for entertainment venues and other land uses. The PUD was negotiated, revised, published for public comment and hearing, and ultimately approved by both the City of Colorado Springs Planning Commission and City Council beginning in 2022.

The City's long-range master plan for the site where the Ford Amphitheater now sits designates the location for mixed uses, specifically including "entertainment" venues.[1] In other words, the amphitheater and PUD specifically fulfill one of the City's criteria for long-term planned use of the area. Based upon the City's mixed-use designation, the Ford Amphitheater is surrounded by numerous restaurants, a Top

[1] See Court File citations in *Northside*, infra at 2, 2024CA72, CF 253-256.

Golf facility, an office park, an indoor skydiving facility, and two apartment complexes.

The City's approved PUD and City Code requirements for the amphitheater include regulation of noise, traffic, and parking. With respect to noise, Venu must comply with the maximum levels set forth in the City's noise control ordinance at City Code § 9.8.101 *et seq*. (identical to the state statute at C.R.S. § 25-12-103). If concert noise levels may exceed maximum levels, Venu is required to obtain a "hardship permit" from the City in accordance with the PUD and City Code § 9.8.109, report the same to the City, and address how such noise will be remediated.

Venu also is defendant / appellee in the case of *Northside Neighbors Ass'n et al. v. Notes Live, Inc. et al*, 2024CA72 (Colo. App.), a Colorado Court of Appeals case referred to in the Petition at 16. The *Northside* plaintiffs are a group of approximately 8 – 10 residents of the City who filed a Complaint in El Paso County District Court in 2023 against Venu and the City, asserting: (a) that operation of the amphitheater violates the noise limits of the state noise control statute at C.R.S. § 25-12-101 *et seq.*; and (b) that the City has no authority under the statute to issue hardship permits.

In the district court, Venu and the City each filed motions to dismiss, asserting that: (1) the district court lacked jurisdiction under ordinary ripeness tests, since the amphitheater had not yet opened; (2) the district court lacked jurisdiction because the Complaint was an untimely C.R.C.P. 106 challenge to the City's approval of the

venue; and (3) the permittee-exemption of C.R.S. § 25-12-103(11) applied to Venu if the City granted a permit to Venu for concerts at the venue. The City subsequently issued a permit to Venu.

The district court granted both Venu's and the City's separate motions to dismiss on all grounds, including applicability of the permittee-exemption at C.R.S. § 25-12-103(11) once the City issued a permit to Venu.[2] Northside then appealed. 2024CA72. On September 12, 2024, the Court of Appeals issued its opinion affirming the district court's dismissal of all claims on jurisdictional grounds, but without reaching the issue of the application of the permittee-exemption.

There is no dispute that Venu to date operates the Ford Amphitheater as a "permittee" of the City of Colorado Springs within the meaning of the permittee-exemption of C.R.S. § 25-12-103(11).

Argument

A. Hobbs Primarily Makes Red Herring Arguments.

Petitioner Hobbs primarily makes red herring arguments concerning the exemption at C.R.S. § 25-12-103(11).

First, Hobbs asserts that the issue raised by this appeal is whether the exemption may be interpreted in a manner that "excuses violations" of statewide

[2] See *Northside*, 2024CA72, CF 1587-1594.

noise standards. See, e.g. Op. at 1-3, 8, 11-12, 23-24, 29. That is a red herring because when the exemption of § 25-12-103(11) applies, then the entire state noise abatement statute – including its noise standards – is inapplicable. The exemptions listed in C.R.S. § 25-12-103 (4), (7) and (11) begin with the phrase "This article is not applicable to …" The "article" is Article 12 – the noise abatement statute.

Second, Hobbs asserts that the majority's interpretation of § 25-12-103(11) fails to give meaning to, and effectively "reads … out of the statute," the introductory phrase "use of property by …" Op. at 8, 10, 18. Not true. The majority opinion, like the district court judges in *Hobbs* and *Northside*, simply recognizes that "use of property by …" includes "use of property by" any of the categories of users listed thereafter – including "lessees, licensees, or permittees" of a state governmental entity or other non-profit organization. Indeed, everyone agrees that "lessees, licensees, or permittees" are a set of users listed after the phrase "use of property by …"

Third, Hobbs asserts that the § 25-12-103(11) exemption does not apply to "for profit" persons using "private property." See, e.g. Op. at 2, 12, 19, 23, 31-32. This is a red herring because, first, no one in this case, or in *Freed v. Bonfire Entertainment LLC et al.*, 2024COA65 (June 20, 2024 Opinion) or *Northside*, asserts that § 25-12-103(11) applies only to publicly owned or publicly-leased property. To the contrary, everyone agrees that the exemption's reference to "property" includes

private property – as the bill sponsor explicitly noted. See *Hobbs* COA Opinion at ¶ 46. Further, all litigants and judges affirm that a state governmental entity or other nonprofit need not *own* the property. Hobbs even refers to property ownership as a strawman issue that he never raised. See, e.g. *Freed* at 18, Op. 9. Second, everyone agrees that a qualifying "lessee, licensee, or permittee" under § 25-12-103(11) may be a for-profit entity. See, e.g. *Freed* at 18 ("we agree [with the *Hobbs* majority] that "permittees" do not also have to be a nonprofit entity or nonprofit corporation to fall within the exemption").

Fiddler's Green, a 17,000-seat outdoor amphitheater that was the impetus for § 25-12-103(11), demonstrates each of the above points. Potential "violations" of the state noise standards of Article 12 at Fiddler's Green concerts are not "excused" by application of § 25-12-103(11). Rather, because of the exemption, the statute is simply inapplicable to Fiddler's Green concerts and concert noise regulation there is left to local authorities. Fiddler's Green is a private property venue used and operated by a private, for-profit national concert booker / promoter, AEG Presents, the same company that uses and operates the Ford Amphitheater. AEG uses the property to book nationally known, for-profit, music performers who, in turn, use the property for concert shows.[3]

[3] See Fiddler's Green and AEG website information at https://www.fiddlersgreenamp.com, https://www.fiddlersgreenamp.com/venue-info/ and https://tinyurl.com/e3yhprp7 (last accessed 1/11/25).

B. The Crux of the § 25-12-103(11) Dispute Is Whether "Lessees, Licensees, Or Permittees" Of A State Governmental Entity Or Other Nonprofit Are Exempt Only When the State Governmental Entity Or Non-Profit *Personally Co-Uses* Property for the Exempted Event.

Setting aside Petitioner's red herring arguments, the real crux of the dispute in this case is whether the exemption of § 25-12-103(11) applies: (a) when a state governmental entity or other nonprofit leases, licenses, or grants a permit to a person to use property for concerts or other exempt events, without any requirement that the governmental entity or other nonprofit *itself also* engage directly or personally in the exempted event; or, instead (b) the exemption applies to such lessees, licensees, and permittees only if the state governmental entity or other nonprofit *itself* is *also* engaged directly or personally in the exempted event by "hosting," "sponsoring," "holding," or taking some other action beyond granting a lease, license, or permit for such event.

Applying the plain language of § 25-12-103(11), the *Hobbs* majority, and the *Hobbs*, *Freed*, and *Northside* district courts, correctly determined that the exemption applies under (a) above, i.e., when a state governmental entity or other nonprofit grants a lease, license, or permit to a person to use property for concerts or other exempt events. These courts, appropriately, do **not** add to or rewrite the statute by requiring that there be at least **two** "users" of property for exempted events before

the lessee-licensee-permittee exemption applies, namely, the governmental / nonprofit entity (first user) **plus** the lessee, licensee, or permittee (second user).

Petitioner Hobbs and *Freed*, in contrast, incorrectly take the position that § 25-12-103(11)'s exemption applies to "lessees, licensees, or permittees" only when there are at least two persons using the property for concerts or other exempt purposes: the state governmental entity or other nonprofit plus their lessee, licensee, or permittee.

To reach their interpretation, Hobbs and *Freed* create categories of "primary," "secondary," and "subordinate" users, some of whom are "equal" and some of whom are not. Op. 10. Hobbs and *Freed* then require first uses by "primary" users that are the "predicates" for additional uses by "secondary" or "subordinate" users etc. All are added terms. The added terms result in Hobbs' strained rendition of the exemption as follows:

> the exemption is necessarily limited to property used by a primary actor, and any other subordinate actor that uses the property used by the primary actor (whether by lease, license, or permit).

Op. at 10. According to Hobbs and *Freed*, this reading means that the state governmental entity or other nonprofit must "host," "hold," "sponsor," or otherwise directly and personally engage in the event as the first and "primary" user before their "lessees, licensees, or permittees" become exempt. See, e.g., *Freed* at 24, 30; Op. at 9, 11, 30. Put differently, Hobbs and *Freed* require the state governmental

entity or nonprofit to *personally co-use* the property for the event, or direct the event, meaning some kind of dual or combined use of property for the exempted activity is always necessary in order for the lessee-licensee-permittee section to apply. The exemption has no such dual-user requirement, as the term "or," separating the categories of users, makes clear.

C. The Hobbs Majority's Interpretation of the § 25-12-103(11) Exemption Correctly Applies Its Plain Language Without Adding or Subtracting Terms.

When interpreting a statute, Colorado courts look "first to the statutory language, giving words and phrases their commonly accepted and generally understood meaning." *Town of Superior v. Midcities Co.*, 933 P.2d 596, 600 (Colo. 1997). Courts apply the "plain and ordinary meaning" of "words and phrases" used in a statute, because "we presume the General Assembly meant what it said." *Allstate Ins. Co. v. Smith*, 902 P.2d 1386, 1387 (Colo. 1995). "If the statutory language is clear, we apply it." *Denver Post Corp. v. Ritter*, 255 P.3d 1083, 1088-89 (Colo. 2011). Interpretive aids outside of a statute's wording, including legislative history, are used only if the statute is ambiguous; otherwise, courts apply the plain language without resorting to interpretive aids. *Town of Superior*, 933 P.2d at 600; *Cisneros v. Elder*, 490 P. 3d 985, 988 (Colo. App. 2020).

The *Hobbs* majority correctly applied the plain language of § 25-12-103(11) without adding or subtracting terms. The exemption is not complicated. It reads:

> This article is not applicable to the use of property by this state, any political subdivision of this state, **or** any other entity not organized for profit, including, but not limited to, nonprofit corporations, **or** any of their lessees, licensees, or permittees, for the purpose of promoting, producing, or holding cultural, entertainment, athletic, or patriotic events, including, but not limited to, concerts, music festivals, and fireworks displays. This subsection (11) shall not be construed to preempt or limit the authority of any political subdivision having jurisdiction to regulate noise abatement.

(emphasis added).

Thus, the exemption is in three basic parts. It applies to (1) "use of property by …" (2) then lists three distinct categories of persons or users, each separated by the term "**or**" (3) for concerts or other statutorily exempt events. The three categories of property users are: (a) the state or a political subdivision of the state; "**or**" (b) any other non-profit entity including non-profit corporations; "**or**" (c) "any of their lessees, licensees, or permittees." § 25-12-103(11).

The term **"or"** when used in a statute in Colorado is presumed to be and "ordinarily" applied as disjunctive. **"Or"** demarcates "different," "alternative," "distinctive" and "separate" categories. *Bloomer v. Boulder County Bd. Of Comm'ers*, 799 P.2d 942, 946 (Colo. 1990) (The legislature's use of the disjunctive 'or' demarcates different categories"); *Zab, Inc. v. Berenergy Corp*., 136 P.3d 252, 255 (Colo. 2006) "Generally, we presume the disjunctive use of the word 'or' marks distinctive categories unless the legislative intent is clearly to the contrary"). *People v. Valenzuela*, 216 P. 3d 588, 592 (Colo. 2009) (same, but also citing and quoting

Garcia v. United States, 469 U.S. 70, 73, 105 S.Ct. 479, 83 L.Ed.2d 472 (1985) (use of the term "or" indicates an intent to identify **separate** categories using the word's normal meaning) (emphasis added).

The term **"or"** is used in § 25-12-103(11) twice in the listing of three categories of users (and thereafter).

The first time **"or"** is used demarcates the state and its political subdivisions from "other" non-profit entities including non-profit corporations. In other words, each is a separate category. Hobbs appears to agree, Op. at 19, noting that the first use of the term **"or,"** between the state, its political subdivisions, and "other" non-profits including non-profit companies, demarcates at least three separate categories. Hobbs agrees that these three categories are distinct and separate even though the state and its political subdivisions *as nonprofit entities themselves* are sub-categories of nonprofits. Thus, the legislature, after listing the category of the state and its political subdivisions, refers to "any **other** entity not organized for profit." In short, everyone agrees that state governmental entities and "other nonprofit[s]" are separate categories of users in § 25-12-103(11) even though the first is a subset of the second.

Likewise, construing the second "or" harmoniously, the second use of the term **"or"** in § 25-12-103(11), between "any other non-profit entity including non-profit corporations "**or** any of their lessees, licensees, or permittees" demarcates a

separate category of users even though such persons are a subcategory of the preceding categories, namely, persons who have been granted a lease, license, or permit by a state governmental entity or other nonprofit to use property for an exempted event.

Against such "normal," and "ordinary" meaning of the term "or," Hobbs and *Freed* improperly merge "lessees, licensees, or permittees" into the preceding categories, creating *combined* categories that always require at least two users in order for the "lessees, licensees, or permittees" section to apply at all. To get there, Hobbs and *Freed* make a confusing argument that the legislature used the term "or" twice in the exemption in order to establish a set of "primary" users (state governmental entities and other nonprofits) and "subordinate" users (their lessees, licensees, and permittees), and that otherwise the "first or" is meaningless. Op. at 20; *Freed* at 23.

Petitioner Hobbs' and *Freed*'s creation of new qualifying terms, "predicates," "equal" and unequal categories, and merging of one distinct category into another, is driven by a non sequitur: yes, it is true that "lessees, licensees, or permittees" come under the exemption only if granted a lease, license or permit by a state governmental entity or other nonprofit to use property for an exempt event. But it does not follow therefrom that the exemption requires at least *two* users of property for lessees, licensees, or permittees. Nor does it follow that the state

governmental entity or other nonprofit must *itself* be using property for the exempted purpose. Cf. Op. at 8 (asserting that the *Hobbs* majority erred because Salida was not *also* "itself" using the property for concerts). Hobbs and *Freed* are rewriting the statute by ignoring separate and distinct categories or subcategories established by the legislature. *Freed* literally made up a word in the statute, holding that the pronoun "their" in the phrase "or *their* lessees, licensees, or permittees" refers back to the noun "users." *Freed* at 23. Such "noun" appears nowhere in the statute. The only nouns that "their" refers to are "this state … political subdivision[s] of this state … other entit[ies] not organized for profit … [and] nonprofit corporations …"

Further, Hobbs' and *Freed*'s requirement that a state governmental entity or other nonprofit "host," "hold" or "sponsor" concerts or other exempted events, *Freed* 24, 30, nullifies the exemption's *order of words*. Each of the categories of exempted users is listed *before* the exempted activity and event, i.e. *before* the phrase "… for the purpose of promoting, producing, or **holding** cultural, entertainment, athletic, or patriotic events, including, but not limited to, concerts …" In other words, the legislature plainly included "lessees, licensees, or permittees" as persons who may be the "promoter" (i.e. sponsor) or "holder" of the concert or other exempted event.

Hobbs' and *Freed*'s rewrite of the exemption should be rejected. By enacting the plain language that it did, the legislature found it sufficient that a state

governmental entity or other nonprofit ***control*** or ***authorize*** use of property for exempt purposes by their lessees, licensees, or permittees. A "lease," "license," or "permit" inherently includes *control* or *authority* over a lessee's, licensee's, or permittee's use, but does not ordinarily require that the lessor, licensor, or permit-grantor itself engage in the permitted activity. To wit, the legislature has used the term "permit" or "permittee" more than a dozen times in the Colorado Revised Statutes, including numerous other environmental statutes in Title 25.[4] The legislature is "presumed to know and intend the legal import" of words it uses in a statute. *Denver v. Gallegos*, 916 P.2d 509, 512 (Colo. 1996). Not once, when using the term "permit" or "permittee" throughout C.R.S., sometimes defined (§ 24-4-104.5) and sometimes not, has the legislature ever used those terms in any manner requiring that the state governmental entity granting the permit also personally engage in the permitted activity.

The plain language enacted by the legislature recognizes a practical reality: a municipality may wish to designate property within its boundaries that it does not own, but which it controls the use of, to accomplish long-range land use planning and community enhancement. A municipality may do so by designating property for concerts and other entertainment events to be performed by private individuals.

[4] See, e.g., C.R.S. § 44-3-404 (festivals, one of the specific types of events also listed in § 25-12-103(11)); § 25-15-303 (hazardous waste); § 25-7-114.5 (air pollution); § 25-10-101 (wastewater treatment).

That is exactly what happened here and in *Northside*. Here, the City of Salida designated its downtown area as a "creative arts district" under C.R.S. § 24-48.5-314(1)(a)(I) for the express purpose of promoting "vibrant art and live music venues downtown," then granted a permit for such use. *Hobbs* at ¶ 3. Similarly, in *Northside*, Colorado Springs used its land control and planning authority to designate the Ford Amphitheater as a site for "entertainment" uses, then granted a permit for the same.

D. The *Hobbs* Majority's Interpretation of § 25-12-103(11) Is Consistent with Its Legislative History.

There is no ambiguity in § 25-12-103(11). In fact, Hobbs asserts no ambiguity. Thus, reliance on the exemption's legislative history is improper.

Nevertheless, the legislative history of HB 87-1370, the bill creating the exemption, is consistent with the *Hobbs* majority's interpretation. Hobbs and *Freed* talk much about the "statewide noise standards" established by § 25-12-101 *et seq*. and the need to preserve those statewide standards, Op. 21-22, *Freed* 24. But in so doing they eviscerate the entire function and purpose of the exemption, which, according to its bill sponsors and proponents, was to "tak[e] the state out" of the equation for "any open air concert," and instead turn regulation of such events over to local governments. Such local control was specifically intended to include

adoption and enforcement of local noise standards and ordinances, and issuance by local government of permits for such events.[5]

As for the exemption's breadth, it could not have been described in broader terms by the bill sponsors. Rep. Schauer, the primary sponsor, expressly stated that while the bill's original motivation was to exempt the Fiddler's Green amphitheater, owned by a nonprofit, the proposed exemption "also would apply to **any other open-air concert around the state**," whether operated on "public or private property."[6]

The fact that legislators when discussing the bill referred by name only to concerts at well-known public venues like Folsom Field or Washington Park is not surprising since: (a) those venues would be recognizable by other legislators in discussing the bill; (b) the tone and context makes clear that sponsors are giving surprising examples of well-known public events that are not (at the time) exempt and could be enjoined under state law; and (c) in 1987, almost 40 years ago when the exemption was adopted, there simply were no large or well-known private concert venues in Colorado – Fiddler's Green was the first. The legislators' extremely broad references to "any open-air concert around the state," whether on "public or private property," make clear that outdoor concerts at private venues were

[5] HB 87-1370 Senate 2nd reading 4/30/87 (Sen. Bird) (:50 to 1:10); House Fin. Committee hearing 4/1/87 (Rep. Schauer) (1:40- 2:48, 4:15 – 4:30); House 2nd reading 4/13/87 Rep. Groff (3:30 – 4:05).
[6] House 2nd reading 4/13/87 Rep. Schauer (2:40 – 2:50).

to be included regardless of who owns the property. The broad, plain language of the statute is not overridden by 40-year old examples of its application.

It also is no accident that the exemption is codified at § 25-12-103(11). It fits the exact structure of other exemptions listed in Section 103, § 25-12-103(4) (aircraft), (7) (speed racing) and (10) (snowmaking), and it very closely tracks or uses language identical to the exemptions at (7) and (10) which make clear that local authorities are empowered to regulate the exempted activities.

Hobbs' argument that it would be odd for the legislature to "tuck" away in § 25-12-103(11) such a major "delegation" of noise regulation from the state to local authorities, Op. at 23, simply ignores that: (a) the state has *already* delegated to local governments the authority to regulate noise in their jurisdictions as part of their ordinary police powers;[7] and (b) pursuant to that authority, every local government in Colorado, or virtually every local government, *already* extensively regulates noise.[8] In other words, by "taking the state out of the equation" for concerts and

[7] See, e.g. C.R.S. § 31-15-401(c), (e) (cited by Hobbs, Op. 3).

[8] For just a small sampling, see sample municipal noise control ordinances as follows: **Arvada**, available at https://tinyurl.com/yfnfwu75; **Lakewood**, available at https://tinyurl.com/yb6psv53; **Boulder**, available at https://tinyurl.com/yd5vd8bw; **Denver**, available at https://tinyurl.com/mwk35vnv; **Broomfield**, available at https://tinyurl.com/4yxzxnbu; **Salida,** available at https://tinyurl.com/4v24e4ut; **Centennial**, available at https://tinyurl.com/tfynnxwz; **Colorado Springs,** available at https://tinyurl.com/yehvbsy2; **Grand Junction,** available at https://tinyurl.com/mwyw287x.

other limited events, the exemption merely removes the state from extensive noise regulation already in place at the local level.

E. "Absurd Scenarios" Will Not Result from Application of § 25-12-103(11)'s Plain Language.

Hobbs and *Freed* worry about "absurd scenarios" that will result if § 25-12-103(11) is applied according to its plain language, such as empowerment of driver's license holders, government-building lessees, and medical doctors to violate state noise standards. Op. at 28. But these "absurd scenarios" are themselves absurd.

First, § 25-12-103(11) refers to "lessees, licensees, or permittees" immediately before the qualifying phrase "for the purpose of producing, promoting, or holding … concerts" and other qualifying events. The statute is to be read as a whole, giving sensible effect to all of its parts. Licenses, leases, etc. held by drivers, government-building tenants, doctors, etc. are not "for the purpose of" holding concerts or any other qualifying event and therefore do not fall under the exemption.

Second, Hobbs' and *Freed*'s worry about a noise free-for-all, unless the exemption is rewritten, is misplaced. Local government noise regulation already in place, or to be enacted, will apply to all exempted events, per the last sentence of § 25-12-103(11). None of the vast local regulation of noise that prevails throughout Colorado exempts drivers, tenants, doctors, etc. from excess noise regulations by virtue of an entirely unrelated license or permit.

Third, importantly, Hobbs' and *Freed*'s interpretation of § 25-12-103(11) does not actually solve or fix the "absurd scenarios" they worry about. To use one example cited by Hobbs as a correct application of the exemption, say the state puts on a Willie Nelson concert at the state fairgrounds in Pueblo, Op. 30. Does that mean that every driver's license holder attending the state fair is now exempt from the state noise standards?

Of course not. A driver's license holder attending the state fair does not hold a "lease, license, or permit" *for the purpose of* putting on a concert or other exempted event. In other words, holders of *unrelated* leases, licenses, or permits are disqualified under Hobbs' and *Freed*'s rendition of the exemption for the same reason they are disqualified under the *Hobbs* majority's interpretation: because such unrelated leases, licenses and permits are not authorizations to "use … property … for the purpose of" any of the exempted events. Correct interpretation of the exemption, not rewriting of it, is all that is needed to avoid the absurd scenarios envisioned.

Conclusion

The Court should affirm the decision of the *Hobbs* majority.

DATED: January 17, 2025.

KERN LAW LLC

/s/ Tobin D. Kern
Attorney for Defendants Notes Live, Inc. d/b/a Venu Holding Corp. and Notes Live Real Estate and Development, LLC

CERTIFICATE OF SERVICE

I certify that on January 17, 2025, a true and correct copy of the foregoing was filed with the Court and served via the Colorado Courts E-Filing System upon all counsel of record, including counsel for the parties as set forth below.

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