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## **WLF Urges Tenth Circuit to Declare Colorado's Rental-Car Fee Preempted under Federal Law** *(American Car Rental Ass'n v. Humphreys)*

***“Colorado’s fee targets airport auto rentals, undermining Congress’s intent to protect interstate air commerce from unfair burdens.”***

—Cory Andrews, WLF General Counsel and Vice President of Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Tenth Circuit to reverse a district court decision and strike down Colorado’s \$3-a-day “Congestion Activity Fee” on short-term vehicle rentals as preempted by federal law. WLF contends that the fee disproportionately burdens airport commerce, violating the Anti-Head Tax Act’s prohibition on state-imposed levies that are not uniformly applied to airport sales or services.

The case stems from a lawsuit by the American Car Rental Association challenging a 2024 Colorado law imposing the fee to fund Colorado’s unrelated pet transit projects. At least half the State’s rental car transactions occur at airports. Rejecting ACRA’s preemption argument, the U.S. District Court for the District of Colorado upheld the fee. ACRA has appealed that ruling to clarify the scope of federal protection under the statute.

In its amicus brief urging reversal, WLF argues that the fee’s disproportionate burden on airport rentals contravenes the statute’s text, structure, and legislative history, all which aim to prevent states from unfairly burdening airport commerce. The district court’s misinterpretation renders key statutory provisions superfluous and flouts established preemption principles, risking a chilling effect on interstate travel. WLF’s brief asks the appeals court to restore Congress’s intent and protect the free flow of air commerce.

*Celebrating its 48th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.*

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