SUPREME COURT
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Case No. S242250

IN THE SUPREME COURT OF CALIFORNIA

REBECCA MEGAN QUIGLEY,

Plaintiff and Appellant,

v.

GARDEN VALLEY FIRE PROTECTION DISTRICT, et al.,

Defendants and Respondents.

Court of Appeal of the State of California
2nd Civil No. C079270
Superior Court of the State of California, County of Plumas
Case No. CV1000225
The Honorable Janet Hilde, Judge Presiding

APPELLANT'S ANSWER TO AMICUS CURIAE BRIEF OF LEAGUE OF CALIFORNIA CITIES, ET AL.

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THE LEAGUE OF CALIFORNIA CITIES AND ALLIED AMICI CURIA DO NOT PRESENT A SOUND REASON TO AFFIRM THE COURT OF APPEAL'S DECISION

The brief of amici curiae League of California Cities, et al., does little more than repeat respondents' arguments, which are fully answered in Quigley's briefs on the merits. The amici make one new contention: they assert that a holding that the firefighting immunity, like other defenses, must be timely asserted or it is waived could impair the ability of firefighting agencies to perform their duties because the holding would have a financial impact on the agencies and "may" make it difficult to hire and retain firefighters. (League ACB at pp. 30-31.)

The argument is a boogeyman. It is comprised of nothing more than speculation. Amici do not offer a single fact to support it.

On the other hand, firefighters themselves have contradicted amici's conjectural assertion that the ability to hire and retain firefighters may be adversely affected by a ruling that the immunity is waived if not timely asserted. Quigley reminds the Court that the International Association of Firefighters, which represents approximately 6,000 California firefighters, has urged the Court to reverse the court of appeal's decision because it has significant adverse consequences for firefighters, as well as for other public employees and the public at large. (Amicus Curiae Letter in Support of Petition for Review on behalf of IAFF Local 2881, dated July 7, 2017.)

Ruling that a firefighting agency waives the immunity by not timely asserting it will foster protection of the safety and well-being of firefighters. In cases like the present case, the potential of liability from waiver of the immunity is a strong incentive for a firefighting agency to take reasonable measures to guard firefighters (and others) against foreseeable injury from a dangerous condition of property the agency uses and controls.

Nor will holding that the firefighting immunity is waived by failure to timely assert it, *per se*, impair the ability of governmental entities to provide firefighting services nor expose them to liability from which the immunity would otherwise insulate them. The issue before the Court is narrow: whether a public entity waives a statutory immunity by waiting more than four years to raise it for the first time at trial. Nothing suggests that firefighting agencies or other governmental entities regularly engage in this kind of sandbagging.

And an agency sued for tort liability can easily avoid loss of an otherwise applicable immunity and exposure to liability at a miniscule fraction of the cost of full-blown litigation. The agency need only do what every other defendant must do under the rules of civil procedure: promptly allege the immunity as a defense upon learning facts that support it.

The League of California Cities and its co-amici do not present a sound reason to accept respondents' position and affirm the court of appeal.

DATED: June 22, 2018

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By: _____
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CERTIFICATE OF WORD COUNT

The text of this brief consists of 476 words according to the word count feature of the computer program used to prepare this brief.

Dated: June 22, 2018

By: _____
Jay-Allen Eisen,
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PROOF OF SERVICE

I am a resident of the State of California, over the age of eighteen years, and not a party to the within action. My business address is 621 Capitol Mall, 18th Floor, Sacramento, California, 95814-4731. On June 22, 2018, I served the within document(s):

APPELLANT'S ANSWER TO AMICUS CURIAE BRIEF OF LEAGUE OF CALIFORNIA CITIES, ET AL.

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Executed on June 22, 2018, at Sacramento, California.

Karen Gould

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