



Press Release

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Theatre Communications Group asks U.S. Supreme Court to Rule that Smoking Within the Context of a Theatrical Production is a First Amendment Right

New York – Three Colorado theatres have engaged in an ongoing legal battle to win an exemption from their State’s smoking ban for theatrical smoking. Denver’s Curious Theatre Company, Paragon Theatre and Boulder’s Theatre 13 (no longer a petitioner) argued that smoking onstage is expressive behavior protected by the First Amendment. A Denver District judge rejected that argument in October 2006, and a three-member appellate court followed suit in March 2008. The theatres then took the case to the Colorado Supreme Court, which agreed to hear the case. On December 14, 2009, the Colorado Supreme Court upheld earlier Colorado court decisions, and denied an exemption for theatrical smoking.

Theatre Communications Group (TCG) has supported the original petitioning theatres since their first appeal. An Amicus Brief was filed today with the U. S. Supreme Court. “As the national service organization for professional not-for-profit theatre, our responsibility is to advocate for our member theatres and our collective, strong belief in freedom of expression,” said Teresa Eyring, TCG executive director.

Theatrical smoking has been a part of free expression in America since the First Amendment’s ratification in 1791. Theatres rely on actors’ expressive conduct, including smoking, to convey meaning in tandem with a play’s dialogue, movement, mood and tone.

Eighteen states have indoor smoking bans which prohibit theatrical smoking and are inconsistent in how they interpret and enforce these laws. The uncertainty around variation in the laws across the nation have led some theatres to self-censor and to deprive their audiences of the opportunity to experience plays which include smoking, rather than risk modifying the plays or facing fines or criminal charges.

TCG and its counsel believe that guidance from the High Court is necessary to secure First Amendment protections for the theatrical community and to preserve freedom of expression.

Theatre Communications Group (TCG), the national organization for the American theatre, exists to strengthen, nurture and promote the professional not-for-profit American theatre. Its programs serve nearly 700 member theatres and affiliate organizations and approximately 13,000 individuals nationwide. In all of its endeavors, TCG seeks to increase the organizational efficiency of its member theatres, cultivate and celebrate the artistic talent and achievements of the field and promote a larger public understanding of, and appreciation for, the theatre. TCG is a 501(c)(3) not-for-profit organization. www.tcg.org.

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