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SUMMARY
October 29, 2026

2026 COA 78

No. 25CA2019, *Moseley v. Town of Palmer Lake* — Government — Colorado False Claims Act — *Qui Tam* — Municipalities — Person

A division of the court of appeals determines, for the first time, that a municipality is excluded from the definition of "[p]erson" under section 24-31-1202(7), C.R.S. 2026, of the Colorado False Claims Act (CFCA). As a result, the district court properly dismissed the plaintiffs' complaint against the Town of Palmer Lake because it is not a "person" subject to liability under the CFCA.

COLORADO COURT OF APPEALS **2026 COA 78**

Court of Appeals No. 25CA2019
El Paso County District Court No. 25CV30595
Honorable Gregory R. Werner, Judge

Roger Moseley and Martha Brodzik, Relators,

Plaintiffs-Appellants,

v.

Town of Palmer Lake, a municipality and municipal corporation,

Defendant-Appellee.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE JOHNSON
Fox and Yun, JJ., concur

Announced October 29, 2026

Leventhal Swan Taylor Temming PC, Andrew E. Swan, Keslie R. Cooper, Samuel D. Engelson, Colorado Springs, Colorado, for Plaintiffs-Appellants

Berg Hill Greenleaf Ruscitti LLP, Geoffrey C. Klingsporn, David J. Goldfarb, Boulder, Colorado, for Defendant-Appellee

¶ 1 In 2022, the General Assembly enacted the Colorado False Claims Act (CFCA), sections 24-31-1201 to -1211, C.R.S. 2026. Ch. 394, sec. 2, §§ 24-31-1201 to -1211, 2022 Colo. Sess. Laws 2778-97. The CFCA authorizes *qui tam* lawsuits[1] against "person[s]" who commit fraud upon the State of Colorado. § 24-31-1203(1), C.R.S. 2026. In this case of first impression, we must determine whether a municipality is included in the definition of a "[p]erson" in section 24-31-1202(7), C.R.S. 2026, thus potentially subjecting it to liability under the CFCA.

¶ 2 Plaintiffs, Roger Moseley and Martha Brodzik, acting as relators on behalf of the State of Colorado (collectively, the Relators), appeal the district court's order dismissing their CFCA claim against defendant, the Town of Palmer Lake (the Town). The Relators contend that the district court erred by dismissing their

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[1] *Qui tam* is an abbreviation for "*qui tam pro domino rege quam pro seipso,*" which means "he who as much for the king as for himself." John T. Boese, *Civil False Claims and Qui Tam Actions* 1-6 (1st ed.1993). Generally, *qui tam* actions share common features, such as allowing private parties (referred to as "relators") to initiate suit, enforcing the laws in the government's stead, and awarding victorious plaintiffs a portion of the recovery. *See* Notes, *The History and Development of Qui Tam*, 1972 Wash. U. L.Q. 81, 86–87 (1972).

claim under (1) C.R.C.P. 12(b)(5), after concluding that municipalities are not subject to liability under the CFCA; and (2) C.R.C.P. 12(b)(1), after determining that their claim is barred by the Colorado Governmental Immunity Act (CGIA).

¶ 3 We agree with the district court that a municipality is not a "person" for purposes of the CFCA; thus, the court properly dismissed the Relators' claim under Rule 12(b)(5). Given our disposition, we need not reach the second issue. Accordingly, we affirm the district court's judgment.

I. Background

¶ 4 The Relators' amended complaint alleged a single claim: The Town knowingly submitted false claims to the State to obtain public funds, which the Town then misappropriated.[2] Specifically, the Relators alleged that the Town received grants from both the federal and state governments but failed to allocate the funds to the appropriate accounts or spend them for their intended purposes.

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[2] The Relators' original complaint named the Trustees of the Town of Palmer Lake, the Town Administrator, and the Town Mayor. Before any defendant answered, the Relators filed an amended complaint solely against the Town.

¶ 5 The Town filed a motion to dismiss the claim under Rules 12(b)(1) and 12(b)(5). The district court granted the motion, concluding that (1) public entities, like the Town, are exempt from liability under the CFCA, so the Relators failed to state a plausible claim for relief; and, alternatively, (2) Town did not waive immunity under the CGIA for "the tort theories" underlying the Relators' claim, so the court lacked subject matter jurisdiction.

¶ 6 The Relators now appeal.

II. Municipalities Are Not Subject to Liability Under the CFCA

¶ 7 The Relators contend that the district court erred by concluding that a municipality is not a "person" subject to liability under the CFCA. We disagree.

A. Standard of Review and Applicable Law

¶ 8 We review dismissals of a complaint under Rule 12(b)(5) de novo. *Kreft v. Adolph Coors Co.*, 170 P.3d 854, 857 (Colo. App. 2007). Under Rule 12(b)(5), a district court tests the legal sufficiency of a complaint, determining whether the plaintiff has asserted a claim upon which relief may be granted. *Hemmann Mgmt. Servs. v. Mediacell, Inc.*, 176 P.3d 856, 858 (Colo. App. 2007). A court may dismiss a complaint under Rule 12(b)(5) if the factual

allegations do not, as a matter of law, support a claim for relief. *Maldonado v. GeneDx, Inc.*, 2024 COA 121, ¶ 14.

¶ 9 Statutory interpretation is also a question of law that we review de novo. *Solano v. Newman*, 2024 COA 93M, ¶ 16. When interpreting a statute, we begin our analysis with the statute's plain language. *Sperry v. Field*, 205 P.3d 365, 367 (Colo. 2009). We "read the words and phrases in context and construe them according to the rules of grammar and common usage, neither adding nor subtracting words from the statute." *Banner Health v. Gresser*, 2025 CO 60M, ¶ 12. And we must read the statutory scheme as a whole to "give sensible and harmonious effect to all of its parts." *Id.*

¶ 10 If the statute is clear and unambiguous on its face, "we need look no further." *People v. Valenzuela*, 216 P.3d 588, 595 (Colo. 2009). If the language is ambiguous, we may look to the statute's "legislative history, the consequences of a given construction, and the overall goal of the statutory scheme to determine the proper interpretation of the statute." *Id.* at 590; *see* § 2-4-203, C.R.S. 2026.

B. Analysis

¶ 11 The district court examined the plain language of the CFCA to determine whether a municipality qualifies as a "person." It began by analyzing section 24-31-1203(1)(a), which says "[A] person is liable to the state . . . if that person . . . [k]nowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval." The CFCA defines a "[p]erson" to include "any individual, corporation, business trust, estate, trust, limited liability company, partnership, association, or other nongovernmental legal entity." § 24-31-1202(7). The court concluded that, by specifying "other nongovernmental legal entity," the General Assembly intended to exclude governmental entities from the definition of "person."

¶ 12 The district court reasoned that this reading of the statute was bolstered by the definition of "[p]olitical subdivision" in section 24-31-1202(8), which has the same meaning as set forth in section 24-72-202(5), C.R.S. 2026. Under section 24-72-202(5), a town is expressly included as a political subdivision. *Id.* ("Political subdivision" includes "every county, city and county, city, town, school district, special district, public highway authority, regional transportation authority, and housing authority within this state.").

Because the statute provides a separate definition for a "political subdivision," the court reasoned that those entities are not included in the definition of a "person."

¶ 13 Likewise, the court found that its interpretation of the statute was consistent with other provisions of the CFCA, such as the provision exempting municipal officials from liability under the statute. Specifically, section 24-31-1204(6)(a)(II), C.R.S. 2026, bars actions "[a]gainst a serving elected official of a political subdivision, a member of a political subdivision's judiciary, or an appointed official of a political subdivision acting in the member's or official's official capacity."

¶ 14 We acknowledge that municipalities occupy a unique position under the law. They unambiguously fall within the CFCA's definition of "[p]olitical subdivision" as a "city" or "town." § 24-72-202(5); *see* § 24-31-1202(8). But they have also "long been recognized as both governmental entities and as corporations." *City of Colorado Springs v. Timberlane Assocs.*, 824 P.2d 776, 779 (Colo. 1992). This gives rise to the question: Did the General Assembly intend for section 24-31-1202(7)'s definition of "[p]erson," which includes all nongovernmental legal entities, to include a

municipality in its corporate form? Given the overall structure of the CFCA, we conclude the answer is no.

¶ 15 In reaching this conclusion, we agree with the district court that the CFCA's definition of "person" excludes municipalities because the General Assembly intended municipalities to be considered governmental entities. In doing so, we reject the Relators' four principal arguments supporting their statutory interpretation: (1) the district court's construction of the statute is contrary to its plain language; (2) municipal liability recognized under the Federal False Claims Act (FCA) mirrors their interpretation of "persons" under Colorado law; (3) the General Assembly enacted the CFCA to address all forms of financial fraud against the State; and (4) the district court's interpretation of the statute is contrary to the CFCA's policy goals and legislative history.

1. Plain Language

¶ 16 First, we reject the Relators' assertion that the phrase "or other nongovernmental legal entity" after the enumerated categories of "[p]erson[s]" in section 24-31-1202(7) suggests a legislative intent to limit CFCA claims against state agencies, counties, and similar governmental entities while nonetheless permitting actions against

a municipal corporation like the Town. Given that the list preceding the phrase "or other nongovernmental legal entity" refers exclusively to *nongovernmental* bodies, a more consistent reading of the phrase limits the enumerated bodies preceding it and the unenumerated bodies covered by it to *only* nongovernmental entities. In other words, the canon of statutory construction *noscitur a sociis*, meaning "a word may be known by the company it keeps," supports our conclusion. *St. Vrain Valley Sch. Dist. RE-1J v. A.R.L.*, 2014 CO 33, ¶ 22 (quoting *Graham Cnty. Soil & Water Conservation Dist. v. United States ex rel. Wilson*, 559 U.S. 280, 287 (2010)); *see also People v. Rodriguez-Morelos*, 2025 CO 2, ¶ 15 (When interpreting the statutory definition of personally identifying information, "we cannot ignore the fact that most of the identifying information included in this definition is exclusive to human beings, and we must read the definition in that light.").

¶ 17 More fundamentally, our interpretation is consistent with the principle that when the General Assembly defines a specific term, that definition governs. *See Farmers Ins. Exch. v. Bill Boom Inc.*, 961 P.2d 465, 470 (Colo. 1998). Colorado has a default definition of "person" in section 2-4-401, C.R.S. 2026, which says that it shall

govern "unless the context otherwise requires." Under section 2-4-401(8), a "[p]erson" includes "any individual, corporation, *government or governmental subdivision or agency*, business trust, estate, trust, limited liability company, partnership, association, or other legal entity." (Emphasis added.) The CFCA's exclusion of any governmental entity or agency from the CFCA's definition of "person" evinces an express intent by the General Assembly to exclude municipalities from liability under the CFCA.

¶ 18 But the Relators counter that this interpretation employs "reverse *ejusdem generis*," a concept disfavored over its counterpart, *ejusdem generis*, which has enjoyed a "long and storied history in the law." *Brubaker v. Colo. Sun*, 2026 CO 18, ¶ 25 & n.5 (emphasis added) (citation omitted). "*Ejusdem generis*" is Latin for "of the same kind" and "is a canon of statutory construction that instructs that 'a "general or collective term" at the end of a list of specific items' is typically "controlled and defined by reference to" the specific classes . . . that precede it.'" *Id.* at ¶ 25 n.4 (emphasis added) (first quoting Jay Wexler, *Fun with Reverse Ejusdem Generis*, 105 Minn. L. Rev. 1, 1 (2020); and then quoting *Fischer v. United States*, 603 U.S. 480, 487 (2024)). According to this canon,

"general words or phrases following a list of specific articles are interpreted to include only items *of the same kind* as those specifically listed." *Id.* In contrast, "reverse *ejusdem generis*" would be "*A*, *B*, or any other *C*" so that only the *A*s and *B*s like the *C*s would be included. *Id.* at ¶ 25 (emphasis added) (citation omitted). The Relators contend that the general catchall *C* in section 24-31-1202(7) — "or other nongovernmental legal entity" — does not control the preceding reference to "corporation," as the General Assembly intended "corporation" to refer to a municipality in both of its forms.

¶ 19 Our interpretation does not assert that "or other nongovernmental legal entity" controls the preceding terms in the definition of a "person." Instead, contrary to the Relators' contention, the court correctly applied the canon of *ejusdem generis* by interpreting "corporation" to be similar to the other nongovernmental entities listed — "any individual, . . . business trust, estate, trust, limited liability company, partnership, [or] association." *Id.*; *see Brubaker*, ¶ 25 n.4 (considering the phrase "other foods" in "apples, bananas, grapes, oranges, and other foods" and noting that *ejusdem generis* would limit the catchall "to fruits

that are not apples, bananas, grapes, or oranges" (citation omitted)). Indeed, this interpretation harmoniously fits with the General Assembly's inclusion of towns and cities as "[p]olitical subdivision[s]" in section 24-31-1202(8). In other words, the drafters were mindful of the dual capacity municipalities have under the law by treating them, for purposes of the CFCA, as governmental rather than corporate entities.

¶ 20 Our reading is also supported by California precedent interpreting that state's False Claims Act (California Act), which — like the CFCA — defines "[p]erson" to "include[] any natural person, corporation, firm, association, organization, partnership, limited liability company, business, or trust." Cal. Gov't Code § 12650(b)(9) (West 2026). In analyzing whether public entities, such as school districts, qualify as "persons" under the California Act, the California Supreme Court noted that the definition contains only terms "commonly associated with private individuals and entities" and lacks language typically "used to signify . . . any other public entities or governmental agencies." *Wells v. One2One Learning Found.*, 141 P.3d 225, 236 (Cal. 2006).

¶ 21 The California court further noted that the statute "makes very specific reference to governmental entities in other contexts," defining "political subdivision" — much like the CFCA — to include "any city . . . or other legally authorized local government entity with jurisdictional boundaries." *Id.* (citation omitted); *see* Cal. Gov't Code § 12650(b)(6). Taken together, the court held that the "specific enumeration of state and local governmental entities in one context, but not in the other, weighs heavily against a conclusion that the Legislature intended to include public school districts as 'persons.'" *Wells*, 141 P.3d at 236. We find this reasoning persuasive, given the parallel statutory framework in Colorado. The General Assembly knew how to enumerate cities and towns under section 24-31-1202(8) and could have expressly included them in the definition of "person" if it so intended.

¶ 22 Nonetheless, the Relators argue that their construction of the statute is more sensible because the CFCA's definition of "person" covers perpetrators of fraud, while "political subdivision" refers to potential victims of such fraud. There is no indication in the statute, however, that the General Assembly intended to assign those roles, and we cannot infer such a distinction implicitly. Doing

so would require us to add language that the General Assembly did not include, which we may not do. *See Godinez v. Williams*, 2024 CO 14, ¶ 29. Nor do the Relators offer a rational reason why the General Assembly would treat municipal corporations differently by potentially subjecting them to liability under the CFCA, while allowing cities and counties, which may also receive federal or state funds and may also perpetrate false or fraudulent claims, immune.

¶ 23 Moreover, the Relators' interpretation does not align with other provisions of the CFCA. While it is not inconceivable that a municipality could allegedly commit fraud in the receipt of state or federal funds, this does not square with how the General Assembly structured the CFCA. For example, section 24-31-1204(2)(a) discusses the state auditor's role with respect to assisting the attorney general with investigating potential false claims. That provision says that, if the state auditor "identifies information of potential false claims submitted to the state or a political subdivision, the state auditor may share any information with the attorney general or the political subdivision." *Id.* The General Assembly intended municipalities to assist with recovery of misappropriated funds. This interpretation is more consistent with

other provisions in the CFCA, such as section 24-31-1209, C.R.S. 2026, which deals with how recoveries from false claims may be returned to the political subdivision based on the amounts attributable to them. *See* § 24-31-1209(3)(b)(I)–(IV), (3)(c); *Banner Health*, ¶ 12.

¶ 24 Similarly, we are not persuaded by the Relators' argument that the CFCA's express immunity for municipal officials implies that municipalities themselves are not immune. Because the definition of "person" is limited to nongovernmental entities, it would have been redundant for the General Assembly to provide immunity to governmental organizations that are not "persons" and thus not subject to liability under the CFCA. *See* § 24-31-1202(7); *Wolford v. Pinnacol Assurance*, 107 P.3d 947, 951 (Colo. 2005) ("[Courts] must interpret a statute to give effect to all its parts and avoid interpretations that render statutory provisions redundant or superfluous."). And while the CFCA was enacted against a backdrop in which we presume the General Assembly was aware that, under certain statutes, a "person includes a municipal corporation," *Romer v. Fountain Sanitation Dist.*, 898 P.2d 37, 40 n.6 (Colo. 1995), we conclude that this is not one of those

instances. In short, the district court's construction reflects a straightforward and plain reading of the CFCA.

2. Federal False Claims Act

¶ 25 Second, the Relators' reliance on the United States Supreme Court's interpretation that municipalities are liable under the FCA is misplaced. It is true that Colorado courts may find federal authority persuasive when a Colorado statute is patterned after a federal statute, *see Flood v. Mercantile Adjustment Bureau, LLC*, 176 P.3d 769, 772 (Colo. 2008), but they also decline to follow federal precedent when the federal and Colorado statutes differ, *see Gomez v. JP Trucking, Inc.*, 2022 CO 21, ¶ 49. Here, the Supreme Court's interpretation of the FCA is not apposite because the CFCA and FCA differ in a material way: The FCA does not define "person," so the Court resorted to the common law, which includes municipal corporations as "persons." *See Cook County v. United States ex rel. Chandler*, 538 U.S. 119, 120 (2003). Because the CFCA expressly defines "person," we must look to that language first. As the Colorado Supreme Court has emphasized, "while 'federal precedent is persuasive in construing similar language in our [state] law, we should first look to the plain language of the controlling statutes

under our law.'" *Gomez*, ¶ 32 (quoting *Rosenthal v. Dean Witter Reynolds, Inc.*, 908 P.2d 1095, 1100 (Colo. 1995)).

3. Policy Considerations and Legislative History

¶ 26 Finally, we jointly address the Relators' final two arguments: Contrary to the Relators' contention that we must consider the statute's policy goals and legislative history, we do not resort to extrinsic aids when the language of the statute is unambiguous on its face. And we have already determined that the CFCA's plain language excludes municipalities as "[p]erson[s]" under section 24-31-1202(7); thus, those entities are not subject to liability for false claims. *See BA Mortg., LLC v. Quail Creek Condo. Ass'n*, 192 P.3d 447, 450 (Colo. App. 2008) ("If a statute is clear and unambiguous on its face, we need not look beyond the plain language and must apply the statute as written.").

¶ 27 Therefore, we affirm the district court's order dismissing the Relators' claim under Rule 12(b)(5).

III. CGIA Issue

¶ 28 Because we affirm the district court's dismissal of the Relators' claim under Rule 12(b)(5), we need not address their CGIA argument. *See Mulberger v. People*, 2016 CO 10, ¶ 23 (Gabriel, J.,

concurring in the judgment) (recognizing the "cardinal principle of judicial restraint" that, "if it is not necessary to decide more, it is necessary not to decide more" (quoting *PDK Lab'ys Inc. v. U.S. Drug Enf't Admin.*, 362 F.3d 786, 799 (D.C. Cir. 2004) (Roberts, J., concurring in part and concurring in the judgment))).

IV. Conclusion

¶ 29 The district court's judgment is affirmed.

JUDGE FOX and JUDGE YUN concur.