

**COLORADO SUPREME COURT**

2 East 14<sup>th</sup> Avenue  
Denver, CO 80203

Original Proceeding  
Pursuant to Colo. Rev. Stat. § 1-40-107(2)  
Appeal from the Ballot Title Setting Board

In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative  
2023-2024 #283 (“Government Fees”)

**Petitioner:**

Norma B. Akright

v.

**Respondents:**

Michele Haedrich and Steven Ward,  
and  
Title Board: Theresa Conley, Jason  
Gelender, and Kurt Morrison

**Attorney for Respondents Michele Haedrich  
and Steven Ward:**

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Case Number: 24SA137

**RESPONDENTS MICHELE HAEDRICH AND STEVEN WARD’S  
ANSWER BRIEF**

## **CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with all requirements of C.A.R. 28 or C.A.R. 28.1, and C.A.R. 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. 28(g) or C.A.R. 28.1(g).**

It contains 752 words (principal brief does not exceed 9,500 words; reply brief does not exceed 5,700 words).

**The brief complies with the standard of review requirements set forth in C.A.R. 28(a)(7)(A) and/or C.A.R. 28(b).**

For each issue raised by the appellant, the brief contains under a separate heading before the discussion of the issue, a concise statement: (1) of the applicable standard of appellate review with citation to authority; and (2) whether the issue was preserved, and, if preserved, the precise location in the record where the issue was raised and where the court ruled, not to an entire document.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 or 28.1, and C.A.R. 32.

/s/ Suzanne Taheri  
Suzanne M. Taheri, #23411  
*Attorney for Petitioners*

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## **INTRODUCTION**

The Title Board correctly determined that Proposed Initiative 2023-2024 #283 is a single subject. It is neither appropriate nor necessary to dissect all of the possible scenarios where the requirements of Initiative #283 might apply in order to conduct a proper single subject analysis. An in-depth analysis of all the possibilities such as the one being suggested by Petitioner is not supported by precedent.

The ballot title set by the Board properly describes the purpose and effects of the initiative. The Court must uphold the Title Board's decision with respect to Proposed Initiative 2023-2024 #283.

## **REPLY ARGUMENT**

### **I. The Initiative contains a single subject**

Petitioner attempts to distinguish this initiative from *Milo v. Coulter (In re Title, Ballot Title & Submission Clause for 2013- 2014 #129)*, 333 P.3d 101 (Colo. 2014), or alternatively asks the Court to overrule its prior ruling findings.

In this regard Petitioner offers multiple purported effects of the measure. In pursuit of a “parade of horrors,” Petitioner provides an example of two people that go to a gym and one pays for the other’s towel. Petitioner then offers a conclusion that under the initiative this would not be a fee because there is no

benefit to the payer. First, this is a speculative effect of the measure and beyond the jurisdiction of the board. These arguments about speculative effects were directly discarded by the Court in *Milo*. The Court’s “limited role in this process prohibits ... addressing the merits of a proposed initiative or suggesting how an initiative might be applied if enacted.” *Milo*, 333 P.3d 101, 104; citing *In re Title v. Respondents: Dennis Polhill & Douglas Campbell, Proponents, & Title (In re Title, Ballot Title & Submission Clause for Proposed Initiative 2001-2002 #43)*, 46 P.3d 438, 443 (Colo. 2002).

The Court has consistently found, “In determining whether a proposed measure contains more than one subject, [the Court] may not interpret its language or predict its application if it is adopted. *Herpin v. Head (In re Title, Ballot Title & Submission Clause)*, 4 P.3d 485, 495 (Colo. 2000); citing *Aisenberg v. Campbell (In re Title, Ballot Title & Submission Clause for Proposed Initiative 1997-98 # 64)*, 960 P.2d 1192, 1197 (Colo. 1998); *cf. In re Branch Banking Initiative*, 612 P.2d 96, 99 (Colo. 1980). Concerns about the effects of an initiative, valid or not, are irrelevant to whether the proposed initiative contains a single subject. *Milo*, 333 P.3d at 105, citing *Kemper v. Hamilton (In re Title, Ballot Title, & Submission Clause for 2011-2012 #3)*, 274 P.3d 562, 568 (Colo. 2012)

Moreover, this example does not even support the petitioner's substantive argument. Under the provided scenario the payer benefits by purchasing the towel for his friend, just as a parent benefits when they purchase something for their child. The transaction is not recharacterized based on the intent of the purchaser.

Petitioner also curiously points to the additional provisions and issues raised in *Milo* that are not a part of this initiative. If anything, the fact that the current initiative is narrower in scope is a factor supporting single subject, not an argument against it.

## **II. The Title Clearly and Accurately Describes the Central Features**

In Petitioner's single subject argument, he argues the measure will have the effect of limiting the enactment of fees. (*Petitioner opening brief*, "The real subject of Initiative #283 is to convert fees that are not paid by the user of the government service or fees that provide no "specific benefit" to the fee payer into taxes that, under TABOR, can only be imposed with voter approval." *p.11*; "With Initiative #283, voters have no notice they are converting what has historically been treated as a fee into a tax." *p. 15*)

Yet in his single subject argument he argues none of this should appear in the title. ("It [the initiative] does not include any provision that amends the operative provisions of TABOR (for instance, stating that a government charge

that is not a “fee” is subject to subsection 4(a)). It does not add a definition of what a “tax” is (for example, any government charge or required payment that is not a “fee” is a tax’’) *p. 19*.

Petitioner cannot have it both ways. The title advises voters of the central features of the measure. The language is neutral and voters will not be confused by any misleading statements.

### **CONCLUSION**

For all of the foregoing reasons, the Court should affirm the decision of the Title Board with respect to Proposed Initiative 2023-2024 #283.

Respectfully submitted this 16<sup>th</sup> day of May, 2024

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 16<sup>th</sup> day of May, 2024, a true and correct copy of the **RESPONDENTS MICHELE HAEDRICH AND STEVEN WARD'S ANSWER BRIEF** was served via the Colorado Court's E-Filing System to the following:

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