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SUPREME COURT, STATE OF COLORADO 2 East 14th Avenue Denver, CO 80203	
ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), C.R.S. (2007) Appeal from the Ballot Title Setting Board	▲ **COURT USE ONLY** ▲
IN THE MATTER OF THE TITLE, BALLOT TITLE AND SUBMISSION CLAUSE FOR 2007-2008 #76 ("JUST CAUSE FOR EMPLOYEE DISCHARGE OR SUSPENSION") JOSEPH B. BLAKE, OBJECTOR , Petitioner, v. JOANNE KING AND LARRY ELLINGSON, PROPONENTS, AND WILLIAM A. HOBBS, DANIEL L. CARTIN, AND DANIEL DOMENICO, TITLE BOARD, Respondents.	Case No.: 08SA120
JOHN W. SUTHERS, Attorney General MAURICE G. KNAIZER, Deputy Attorney General* 1525 Sherman Street, 7th Floor Denver, CO 80203 (303) 866-5380 Registration Number: 05264 *Counsel of Record	
ANSWER BRIEF OF TITLE BOARD	

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CASES

William A. Hobbs, Daniel L. Cartin and Daniel Domenico, members of the Title Board ("Board"), by and through undersigned counsel, hereby submit their Answer Brief.

The Board incorporates the statement of issues, statement of the case, statement of facts, and summary of argument in its Opening Brief.

ARGUMENT

I. The measure contains a single subject.

Objector contends that the measure has three separate subjects: (1) repeal of the at-will employment doctrine; (2) creation of a definition of "just cause" in contradiction to the common law; and (3) implied repeal of employers' right to contract. Objector's primary concern is the alteration of existing common law. (Objector's Opening Brief, pp 6-10.)

Objector's argument misses the point of the single subject analysis. The question is not whether the measure changes existing law. It is fair to assume that the proponents would not have proposed the initiative if they did not wish to alter existing law. *See, In re Title, Ballot Title and Submission Clause and Summary for 1999-2000 #258A,* 4 P.3d 1094, 1098 (Colo. 2000) ("The mere fact that a constitutional amendment may affect the powers exercised by the government under pre-existing constitutional provisions does not, taken alone, demonstrate that

a proposal embraces more than one subject. All proposed constitutional amendments or laws would have the effect of changing the status quo in some respects if adopted by the voters.") Instead, the question is whether the details of the measure are tied to the proposal's central focus. *In re Title, Ballot Title and Submission Clause and Summary for 1999-2000 #200A*, 992 P.2d 27, 30 (Colo. 2000). The effect of the measure on existing laws is immaterial to the single subject analysis as long as the various parts of the measure relate to the single subject.

Courts have rejected the argument that a bill changing the status of the employer-employee relationship, with a concomitant limitation on the power of the employer to contract, has multiple subjects. *State v. Justus*, 88 N.W. 759 (Minn. 1902). In *Justus*, the State of Minnesota enacted a law that prohibited employers from blacklisting employees who they discharged or who left employment voluntarily. Section 1 of the law prohibited two or more employers from blacklisting employees. Section 2 of the measure prohibited employers from allowing their agents to blacklist employees. Section 4 of the measure declared a violation of the law a misdemeanor. The title of the bill was "An act to prohibit the practice of blacklisting and the coercing and influencing of employees by their employers.

An employer who was charged under the act argued that measure contained more than one subject. In part, the employer argued that employers have a "natural right" to offer information to other employers. The Minnesota Supreme Court found this argument irrelevant. The resolution of the single subject dispute revolved around the right of employees to protect their rights to sell their labor and acquire property. *Id.* at 760. This purpose was consistent with the intent of the measure, *viz.* to prohibit blacklisting and coercion of employees. *Id. See also, Wabash R. Co. v. Young*, 69 N.E. 1003, 1005 (Ind. 1904).

This Court has rejected single subject challenges on the ground that the measure changes accepted definitions. *Industrial Commission v. Continental Inv. Co.*, 78 Colo. 399, 242 P. 49 (1925). The Workmen's Compensation Law provided that an employer who conducted a business by leasing or contracting out any part or all of work related to the business was an employer and was liable to pay compensation for death or injury resulting from the work to lessees or contractors. The employer argued that the definitions of "employer" and "employee" were not germane to the title because the definitions were not consistent with the common definitions of the terms. The Court disagreed, holding that the general assembly had the right to "declare the sense in which the words are used both in the title and in the rest of the act." *Id.* 78 Colo. at 403, 242 P. at 50.

Thus, the fact that a proposal adds a definition of "just cause" does not constitute a violation of the single subject rule because the definition is related to the central feature of the measure.

Objector's analysis actually supports the conclusion that the measure contains a single subject. The Objector contends that the measure modifies employers' common law right to contract with employees by eliminating the employment-at-will doctrine and substituting a "just cause" requirement for termination. In essence, the measure imposes a standard for termination of employees by employers. The change to the employment at will doctrine and the alleged change to the right to contract are directly related to the imposition of this standard.

II. The title accurately and fairly describes the content of the measure.

Objector asserts that the titles do not state that the measure would eliminate employment at will and eliminate the right to contract. The Objector is asking the Court to interpret the effect of the measure on existing constitutional rights. The Court has consistently refused to interpret the impact of measure on other constitutional or statutory provisions at this juncture of the process. *Armstrong v. Davidson*, 10 P.3d 1278, 1282 (Colo. 2000).

Finally, Objector contends that the phrase "just cause" is a catch phrase that cannot be used in the titles. As noted in the Board's Opening Brief, "just cause" is a commonly-used legal standard in employment law. The use of language that exactly describes the operative legal standard does not constitute a catch phrase. *In re Title, Ballot Title and Submission Clause and Summary Pertaining to the Proposed Initiative on Surface Mining*, 797 P.2d 1275, 1280 (Colo. 1990).

CONCLUSION

For the reasons stated in this brief and the Board's Opening Brief, the Court must affirm the Board's action.

JOHN W. SUTHERS
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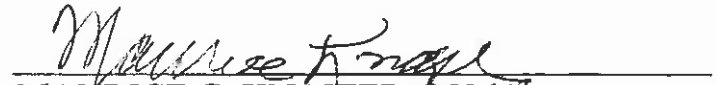

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CERTIFICATE OF SERVICE

This is to certify that I have duly served the within **ANSWER BRIEF OF TITLE BOARD** upon all parties herein by depositing copies of same by Express Mail, postage prepaid, at Denver, Colorado, this 19th day of May 2008 addressed as follows:

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