

ORIGINAL

Certification of Word Count: 551

<p>SUPREME COURT, STATE OF COLORADO 2 East 14<sup>th</sup> Avenue Denver, CO 80203</p>	<p>FILED IN THE SUPREME COURT <b>MAY 30 2006</b> OF THE STATE OF COLORADO SUSAN J. FESTAG, CLERK</p> <p>▲ <b>COURT USE ONLY</b> ▲</p>
<p>ORIGINAL PROCEEDING PURSUANT TO § 1-40-107(2), 1 C.R.S. (2006)</p>	<p>Case No.: 06 SA 144</p>
<p>IN THE MATTER OF THE TITLE, BALLOT TITLE AND SUBMISSION CLAUSE FOR 2005- 2006, #82 PAGE PENK AND CHESTER PENK,  Petitioners,  v.  WILLIAM A. HOBBS, JASON DUNN AND DAN CARTIN, TITLE BOARD,  Respondents.</p>	
<p>JOHN W. SUTHERS, Attorney General MAURICE G. KNAIZER, Deputy Attorney General* 1525 Sherman Street, 5<sup>th</sup> Floor Denver, CO 80203 (303) 866-5380 Registration Number: 05264 *Counsel of Record</p>	
<p><b>BRIEF OF TITLE BOARD</b></p>	

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William A. Hobbs, Jason Dunn and Dan Cartin, in their capacities as members of the Title Board (hereinafter Board), hereby submit their brief.

### **STATEMENT OF THE ISSUES**

Do the titles set by the Board fairly and accurately describe the measure?

### **STATEMENT OF THE CASE**

On March 30, 2006 the proponents submitted proposed initiative #82 to the Secretary of State. The proposed initiative was heard on April 19, 2006. The Board set titles. On April 25, 2006, the proponents filed a motion for rehearing on the ground that the titles set by the board were inadequate. The Board denied the Motion for rehearing on May 3, 2006. The proponents filed an appeal with this Court on May 10, 2006.

### **STATEMENT OF THE FACTS**

The proponents seek to amend article XXVI of the Colorado Constitution to add section 6. The proposed section provides, "Peace is possible."

The title set by the Board states: "An amendment to article XXVI of the Colorado constitution concerning a declaration that peace is possible."

The ballot title and submission clause states: "Shall there be an amendment to article XXVI of the Colorado constitution concerning a declaration that peace is possible?"

The proponents claim that the titles are inadequate.

### **SUMMARY OF THE ARGUMENT**

The titles set by the Board fairly and accurately describe the measure.

### **ARGUMENT**

When setting the titles, the Board must "correctly and fairly express the true intent and meaning" of the proposed initiative and must "consider the public confusion that might be caused by misleading titles." Section 1-40-106(3)(b), C.R.S. (2005). The titles must unambiguously state the principal features of the initiative. The Board's decisions are presumptively valid. *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 #235(a)*, 3 P.3d 1219, 1225 (Colo. 2000). The Board has broad discretion in the exercise of its drafting authority. *In re Title, Ballot Title and Submission Clause for Proposed Initiatives 2001-2002 #21 and #22*, 44 P.3d 213, 219 (Colo. 2002). Titles that repeat the operative language of the measure and express the measure's true intent and meaning will be approved by the Court. *In re Title, Ballot Title and*


*Submission Clause and Summary for the Proposed Initiated Constitutional Amendment "Concerning Suits Against Nongovernmental Employers Who Knowingly and Recklessly Maintain an Unsafe Workplace ("Unsafe Workplace")*, 898 P.2d 1071, 1074 (Colo. 1995). The Court will reject the language of the Board "only if it is misleading, inaccurate, or fails to reflect the central features of the proposed measure." *In re Title, Ballot Title and Submission Clause and Summary for 1999-2000 No. 215*, 3 P.3d 11, 14 (Colo. 2000).

Although it is possible to write the titles in a different way, the Court should not order the Board to do so. The titles set by the Board fairly and accurately reflect the content of the measure. They state that the measure amends the Colorado constitution and refer to the sections that will be amended if the measure passes. The titles include the entire measure, which consists of three words. When the titles set forth "the intent of the Initiative with sufficient clarity to apprise the electorate of the purpose of the amendment," the Court will affirm the titles adopted by the Board. *Unsafe Workplace*, 898 P.2d at 1075.

### CONCLUSION

The Court must approve the titles set by the Board.

JOHN W. SUTHERS  
Attorney General

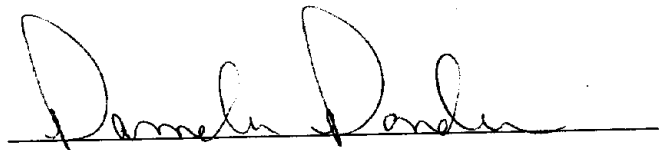
  
MAURICE G. KNAIZER, 05264\*  
Deputy Attorney General  
Public Officials  
State Services Section  
Attorneys for Title Board  
\*Counsel of Record

CERTIFICATE OF SERVICE

This is to certify that I have duly served the within BRIEF OF TITLE BOARD upon all parties herein by depositing copies of same in the United States mail, Express Mail, postage prepaid, at Denver, Colorado, this 30<sup>th</sup> day of May 2006 addressed as follows:

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Denver, CO 80231

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A handwritten signature in cursive script, appearing to read "Daniel Dander", is written over a horizontal line.



**Ballot Title Setting Board**

**Proposed Initiative 2005-2006 #82<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

- 1           An amendment to article XXVI of the Colorado constitution concerning a declaration that  
2 peace is possible.

The ballot title and submission clause as designated and fixed by the Board is as follows:

- 3           Shall there be an amendment to article XXVI of the Colorado constitution concerning a  
4 declaration that peace is possible?

*Hearing April 19, 2006:  
Single subject approved; staff draft adopted; titles set.  
Hearing adjourned 1:47 p.m.*

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<sup>1</sup> Unofficially captioned "Peace" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.

Original Changes #82

Be it Enacted by the People of the State of Colorado:

Article XXVI of the Colorado Constitution is amended as follows:

Section 6 – PEACE IS POSSIBLE.

SUBMITTED BY:

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April 25, 2006

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Greetings,

The proponents of Proposition # 82 request and require a title board rehearing. The title set by the board is inadequate. (spelling?)

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