

**COLORADO SUPREME COURT**

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

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Original Proceeding  
Pursuant to C.R.S. § 1-40-107(2)  
Appeal from the Ballot Title Setting Board

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In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative 2013-2014  
#129 (“Definition of ‘Fee’”)

**Petitioner: ANTHONY MILO**

v.

**Respondents: PETER COULTER and LISA  
BRUMFIEL**

and

**Title Board: SUZANNE STAIERT; DANIEL  
DOMENICO; and JASON GELENDER.**

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Case No.: 2014SA135

**PETITIONER’S ANSWER BRIEF**

## **CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in those rules. Specifically, the undersigned certifies that the brief complies with C.A.R. 28(g) and contains **2,259** words. The brief also complies with C.A.R. 28(k) and contains under a separate heading: (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record where the issue was raised and ruled on.

*/s/ Chip G. Schoneberger*

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## ARGUMENT

### **I. The Title Board’s Inability to Articulate the Full Scope of the Matters Encompassed by Initiative 129 Demonstrates the Measure is too Broad to Set Title**

The Title Board first argues Initiative 129 “does not violate the single subject rule because the matters encompassed by it are necessarily or properly connected to each other[.]” (Title Board Op. Br. at 7) (internal quotations omitted). Namely, the Title Board argues the measure “defines the term ‘fee’ and renders uniform that definition throughout Colorado law.” (*Id.* at 8). Contrary to the Title Board’s argument, however, the measure is not so limited. It also expressly applies to “all public Colorado legal documents.” And the measure fails to define that phrase, which is inherently vague.

Indeed, the phrase ostensibly encompasses any document containing the word “fee” that has some sort of legal effect and is available to the public. This includes recorded real estate contracts (broker “fee”) and other documents effecting individual rights to property such as deeds of trust (trustee “fee”). It also includes any document contained in court files, such as probate documents (administrative “fee”). The Title Board simply ignores these other subjects encompassed by Initiative 129 and fails to articulate how such (unlimited) matters are necessarily or properly connected to each other.

The Title Board's cited cases do not cure its error. For example, the measure at issue in *In re Proposed Ballot Initiative on Parental Rights*, 913 P.2d 1127 (Colo. 1996) expressly addressed only the subject of rights in the parent-child relationship. Similarly, the measure *In re Title, Ballot Title and Submission Clause for 1999-00 #256*, 12 P.3d 246 (Colo. 2000) addressed only the subject of citizen involvement and relationships to managing local community development. Unlike those case, however, Initiative 129 fails to even identify or otherwise define the myriad of legal relationships, transactions or policies that the vague phrase "all public Colorado legal documents" addresses. And the Title Board's inability to articulate the full scope of the matters encompassed by Initiative 129 demonstrates the measure is too broad to set title. *In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 No. 25*, 974 P.2d 458, 465 (Colo. 1999) ("if the Board cannot comprehend a proposed initiative sufficiently to state its single subject clearly in the title, it necessarily follows that the initiative cannot be forwarded to the voters").

## **II. The Title Fails to Communicate the Initiative's Broad Impact and True Intent**

Next, the Title Board argues the measure's title need not "educate" voters as to its broad impact because everyone knows an amendment to the Colorado constitution would "trump any conflicting state or local law, by default." (Title Board Op. Br. at 10-11). Even assuming *arguendo* that the general citizenship can be credited with

such knowledge, the Title Board still ignores that Initiative 129 expressly applies to more than state and local law – it also applies to “all public Colorado legal documents.” At a minimum the title must inform the voters that the measure applies to “all public Colorado legal documents” of every nature.

### **CONCLUSION**

For the foregoing reasons and upon the cited authorities here and in his Opening Brief, Petitioner requests this Court reverse the Title Board’s action in setting title to Initiative 129 because it contains multiple subjects and because the titles are misleading.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 29th day of May, 2014, a true and correct copy of the foregoing **PETITIONER'S ANSWER BRIEF** was served via e-mail, U.S. Mail and/or ICCES to the following:

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