

Certification of Word Count: 488

SUPREME COURT, STATE OF COLORADO

2 East 14th Avenue
Denver, CO 80203

ORIGINAL PROCEEDING PURSUANT TO
§ 1-40-107(2), C.R.S. (2006) Appeal from Ballot
Title Board

IN THE MATTER OF THE TITLE, BALLOT
TITLE AND SUBMISSION CLAUSE FOR 2007-
2008 #36

ELIZABETH ANNISON, ELLEN BRILLIANT,
TRUDY B. BROWN, VICKI J. COWART,
CATHRYN L. HAZOURI, JACINTA
MONTOKA, AND TONI PANETTA
OBJECTORS

Petitioner,

v.

KRISTINE BURTON AND MARK MEUSER,
PROPOSERS
AND
WILLIAM A. HOBBS, DANIEL CARTIN, AND
DANIEL DOMENICO,
TITLE BOARD,

Respondents.

JOHN W. SUTHERS, Attorney General
MAURICE G. KNAIZER, Deputy Attorney
General*

1525 Sherman Street, 5th Floor
Denver, CO 80203
(303) 866-5380

Registration Number: 05264

*Counsel of Record

SUPREME COURT

SEP 28 2007

OF THE STATE OF COLORADO
SUSAN J. FESTAG, CLERK

▲ COURT USE ONLY ▲

Case No.: 07SA245

ANSWER BRIEF OF TITLE BOARD

TABLE OF CONTENTS

	PAGE
SUMMARY OF THE ARGUMENT	1
ARGUMENT	1
The Measure Contains Only One Subject: Defining The Term "Person" in Colo. Const. art. II, § 3, 6 and 25. The Substantive and Procedural Rights Are Closely Related	1
CONCLUSION	3

TABLE OF AUTHORITIES

PAGE

CASES

In re 1997-1998 No. 74, 962 P.2d 927 (Colo. 1998)	2
Metzger v. People, 98 Colo. 133, 53 P.2d 1189 (1936).....	2

CONSTITUTIONS

Colo. Const. art. II, § 25.....	1
Colo. Const. art. II, § 3.....	1
Colo. Const. art. II, § 6.....	1

William A. Hobbs, Daniel Cartin and Daniel Domenico, as members of the Title Board (hereinafter "Board"), hereby submit their Answer Brief.

SUMMARY OF THE ARGUMENT

The measure seeks to add section 31 to article II of the Colorado Constitution to extend the definition of "person" in sections 3, 6 and 25 of article II to include "any human being from the moment of fertilization." Although these sections of the Colorado constitution include both substantive and procedural rights, the procedural rights are intended to implement and enforce the substantive rights.

ARGUMENT

The Measure Contains Only One Subject: Defining The Term "Person" in Colo. Const. art. II, § 3, 6 and 25. The Substantive and Procedural Rights Are Closely Related.

The Objectors argue the measure improperly mixes substantive and procedural rights. (Objectors' Opening Brief, p.12) The Objectors assume that substantive rights and procedural rights are mutually exclusive. The Court must reject this argument.

"An initiative with a single, distinct purpose does not violate the single-subject requirement simply because it spells out details relating to its

implementation. As long as the procedures specified have a necessary and proper relationship to the substance of the initiative, they are not a separate subject.” *In re 1997-1998 No. 74*, 962 P.2d 927, 929 (Colo. 1998). An “initiative is not transformed into a multi-subject proposal simply because it specifies the mechanisms to be used to resolve issues related to” its substantive subject matter. *Id.* Otherwise, “[m]ultiple ideas might well be parsed from even the simplest proposal by applying ever more exacting levels of analytical abstraction until an initiative measure has broken into pieces.” *Id.*

The measure expands the definition of “person” to include “any human being from the moment of conception.” A “person” has both substantive and procedural rights under the Colorado Constitution. The measure does nothing more than identify those rights.


This Court has recognized the close relationship between substantive and procedural rights which are afforded when the law grants personhood status from the moment of conception. *Metzger v. People*, 98 Colo. 133, 53 P.2d 1189 (1936). As noted in the Board’s Opening Brief, the definition of “child” in Colorado at one time included “all children under the age mentioned herein from the time of conception and during the months of birth.” In *Metzger*, the Court approved an

action brought by the People on behalf of the unborn child for child support. It rejected a claim by the father that the definition of "child" violated the single subject rule. The Court then concluded that the rights that are granted to the unborn can be enforced by the courts in actions against the parents. *Id.* at 1191. In other words, the substantive rights of the unborn, as defined by law, and the procedural rights which are available to enforce the substantive rights, are closely connected.

CONCLUSION

For the reasons stated in the Board's Opening Brief and herein, the Court must approve the action of the Title 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 **ANSWER 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 28th day of September 2007 addressed as follows:

Kara Veitch, Esq.
Edward T. Ramey, Esq.
Isaacson Rosenbaum PC
633 17th Street, Suite 2200
Denver, Colorado 80202

Michael Norton, Esq.
Burns Figa and Will PC
6400 South Fiddlers Green Circle,
Suite 1000
Greenwood Village, Colorado 80111
