COLORADO SUPREME COURT 2 East 14th Avenue Denver, CO 80203	DATE FILED May 6, 2026 2:00 PM
Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2025) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2025-2026 #251 **Petitioners:** Lindsey Rasmussen and Valerie Beck **v.** **Title Board**: Theresa Conley, Michael Dohr, and Kurt Morrison. and **Initiative #251 Proponents:** Suzanne Taheri & Elizabeth Caven	▲ **COURT USE ONLY** ▲ Case No. 2026SA125
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THE TITLE BOARD'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 these rules. Specifically, I certify that:

The brief complies with the word limits set forth in C.A.R. 28(g) or C.A.R. 28.1(g).

It contains 1,892 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).

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/ Kolya Glick

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INTRODUCTION

The opening briefs from Petitioners Lindsey Rasmussen and Valerie Beck largely repeat the arguments from their Motions for Rehearing, thereby confirming the Title Board's position that Petitioners' challenges to Initiative #251 derive from their policy disagreements with the Initiative, not the form or clarity of the ballot initiative itself. *See* Board's Opening Br. at 9-10, 19-20. Because it is well established that this Court does "not address the merits of the proposed initiative" or "suggest how it might be applied if enacted," *In re Title, Ballot Title & Submission Clause for 2019-2020 #3*, 2019 CO 57, ¶ 8 (citations omitted), Petitioners' challenges fall flat.

Initiative #251 expresses a single subject, setting forth a process for any mid-cycle congressional redistricting that may occur and announcing criteria for what constitutes a permissible congressional map in those narrow circumstances. With that single subject properly in focus, the Initiative's title is descriptive, not misleading, and there is no impermissible "catchphrase" embedded within it. This Court should affirm the title set by the Title Board on Initiative #251.

ARGUMENT

I. The Title Board had jurisdiction to set a title.

As explained in the Board's Opening Brief, the single subject of Initiative #251 is the process for any mid-cycle congressional redistricting. Board's Opening Br. at 7-10. Specifically, the measure sets forth a process for the review of any mid-cycle congressional maps—outside the ordinary once-a-decade process following the federal census—and provides criteria to guide that process. Petitioners' attempts to inject a second subject into the title fail.

To begin, Petitioner Beck's citation to *In re Title, Ballot Title & Submission Clause for 2025-2026 #158*, 2026 CO 13, provides a helpful contrast to this case. In that case, this Court found that the proposed initiative violated the single-subject rule by seeking to both: (1) amend the Taxpayer Bill of Rights (TABOR) to require voter approval for certain "fees"; *and* (2) make "substantial changes to the definition of 'fee' throughout Colorado law." *Id.* at ¶ 9. This Court based its finding, in part, on the different temporal effects that the initiative would have: while the voter-approval requirement would apply going *forward*, the

change to the definition of "fee" would have applied retroactively to a wide array of provisions in Colorado law. *Id.* at ¶ 25. In addition, the scope of the change to the definition of "fee" would have been sweeping, likely affecting many different (and unforeseeable) areas of the law. *Id.* This Court also noted that there was a distinct "constituency interested specifically in narrowing the definition of 'fee,' suggesting a concern that this aspect of the Initiative invites log rolling." *Id.* at ¶ 20.

None of the same concerns apply here. Unlike *Proposed Initiative 2025-2026 #158*, Initiative #251 would apply only prospectively, and only to the extent that an outside event triggers a mid-cycle redistricting process. Because there is no established procedure for conducting or implementing a mid-cycle redistricting, Initiative #251 necessarily would not make any retroactive changes to existing Colorado law. Moreover, the scope of Initiative #251 is exceedingly narrow: It would fill a gap in existing law by setting the rules of the road for any *future* mid-cycle redistricting that might be triggered by an outside event (such as a federal judicial order). It would have no retroactive effects. *Contra id.* at ¶ 25. Nor is there is any evidence of

"log rolling," as Petitioners have not identified any constituency with a particular interest in any specific aspect of Initiative #251.

In reality, the different provisions in Initiative #251 are naturally and inextricably singular: providing for the process for approving mid-cycle redistricting is governed by the Initiative's criteria, including the prohibition on partisan gerrymandering. Conversely, the prohibition on partisan gerrymandering is nonsensical without a procedural framework to implement that standard. Together, the constitutional provisions proposed in the initiative form a single cohesive subject. *See* Board's Opening Br. at 7-10.

Petitioners' proffered second subjects only confirm that there is one overarching subject in Initiative #251. *See id.* at 11-13 (citing, *inter alia*, *In re Title, Ballot Title & Submission Clause for 2013-2014 #89,* 2014 CO 66, ¶¶ 14-15 (affirming single-subject title for proposed initiative involving the over-arching purpose of creating public right to Colorado's environment along with mechanisms to carry out that purpose)). While both Petitioners criticize Initiative #251 for failing to conform to existing constitutional procedures for redistricting, they fail

to confront the fact that Initiative #251 creates a new procedure for mid-cycle redistricting *outside* the established constitutional process.

For instance, Petitioner Beck claims the Initiative would add "new constitutional criteria for congressional maps" by adding the criteria that mid-cycle maps may not be "drawn purposefully to favor one party." Beck Opening Br. at 6. This argument does not grapple with the reality that *there currently is no set criteria for drawing mid-cycle maps*. Based on the plain text of the initiative, therefore, voters will not be misled into believing the "initiative does not change the existing constitutional framework," as Petitioner Beck asserts. *Id.* at 9. Rather, the "new" criteria—prohibiting partisan gerrymandering in mid-cycle elections—is set forth in plain language and is necessary to explain *how* the new procedure is to be implemented. The Initiative makes no changes to the "standard process for congressional redistricting" as set forth in Colo. Const. art. V, §§ 44 and 44.1–44.6. *Contra* Beck Opening Br. at 6. There is, accordingly, no realistic risk of voter confusion as to that process.

Petitioner Rasmussen takes a slightly different tack, arguing that the "elimination" of a "contiguity" requirement for congressional maps is a second subject that departs from the existing in-cycle redistricting process. Rasmussen Opening Br. at 9-10. But like Petitioner Beck, Petitioner Rasmussen ignores that there is no existing constitutional criteria for drawing mid-cycle congressional maps *outside* of a redistricting year, and the Initiative therefore would not "eliminat[e]" anything from the existing redistricting process. Record, p. 16. Petitioner Rasmussen's objection to the "omission" of a contiguity requirement in mid-cycle redistricting may be a reason for her to oppose the Initiative on the merits, but it does nothing to undermine the single subject of the Initiative itself. *See* Rasmussen Opening Br. at 8-9 (criticizing the Initiative for creating the possibility that "an island of voters in Craig, Colorado, may be lumped into a district with an island of voters in Denver"). Put differently, Petitioner's remedy for her complaint is at the polls, not with this Court.

Because there is a clear central purpose in Initiative #251, the Colorado Constitution's single-subject requirement is satisfied.

II. The title set by the Board satisfies the clear title standard.

Petitioners do not meaningfully engage with the highly deferential standard of review that this Court employs when considering a challenge to the clarity of a title. *See* Board's Opening Br. at 15. Instead, Petitioner Beck nit-picks the title by arguing that it contains an impermissible "catchphrase," Beck Opening Br. at 9-13, while Petitioner Rasmussen rehashes her single-subject argument that the Initiative is misleading because it omits certain criteria that apply in the context of redistricting in a typical redistricting year (including the contiguity requirement), Rasmussen Opening Br. at 10-12. Neither argument can overcome the Board's wide discretion to set an appropriate title.

To begin, Petitioner Beck acknowledges that, on rehearing, the Title Board amended the supposed "catchphrase" that she identified in the proceedings below. Beck Opening Br. at 11 & n.1. Yet despite the Board's changes, she does not meaningfully alter her argument. Accordingly, it appears Petitioner Beck's real objection is not to the particular phrasing or "catchiness" of the phrase "does not purposefully

favor one political party," *id.* at 11; her challenge is instead directed to the very concept of partisan gerrymandering, *id.* at 11-12. Petitioner Beck thus embraces the broad argument that an initiative which proposes to restrict "favoring" one party over another constitutes an improper "appeal to emotion." *Id.* at 11.

Petitioner Beck's own arguments expose the flaw in her position. The fact that this initiative has been introduced in a "political environment polarized along party lines," and that it may engender emotional responses, *id.* at 10-11, are simply arguments against the *content* of the Initiative, not its form (or any "catchphrase" contained within it). To the contrary (and as the Board has explained), the term "does not purposefully favor one political party" "traces 'directly from the text of the Proposed Initiative[], and its inclusion in the title provides an accurate description of what the Proposed Initiative[] would do.'" Board's Opening Br. at 17 (quoting *In re Title, Ballot Title & Submission Clause for 2013-2014 #85*, 2014 CO 62, ¶ 32).

Petitioner Beck's remaining arguments all go to the practicability of interpreting and enforcing the Initiative's terms, including what it

means to "purposefully favor one political party." Beck Opening Br. at 12-14. The difficulties of defining and adjudicating what constitutes partisan gerrymandering are well documented by courts in other jurisdictions. *Compare Rucho v. Common Cause*, 588 U.S. 684, 691 (2019) ("This Court . . . has struggled without success over the past several decades to discern judicially manageable standards for deciding [partisan gerrymandering] claims"), *with id.* at 734 (Kagan, J., dissenting) ("Over the past several years, federal courts across the country—including, but not exclusively, in the decisions below—have largely converged on a standard for adjudicating partisan gerrymandering claims."), *and Lujan Grisham v. Van Soelen*, 539 P.3d 272, 285 (N.M. 2023) (holding egregious political gerrymander violates New Mexico Constitution). If Initiative #251 were passed, the Colorado judiciary undoubtedly would need to confront similar questions.

Yet any difficulties of interpreting what partisan gerrymandering means only underscore that the Initiative's title—which clearly states its intended purpose of prohibiting partisan gerrymandering—is not an impermissible catchphrase. Rather, it is well established that the

"Board need not consider and resolve potential or theoretical disputes or determine the meaning or application of the" measure. *In re Title, Ballot Title & Submission Clause & Summary for a Pet. on Sch. Fin.*, 875 P.2d 207, 210 (Colo. 1994). Nor is a title unclear simply because a term's "definition must await future legislative and judicial construction and interpretation." *In re Title, Ballot Title & Submission Clause & Summary for 1997-1998 #75*, 960 P.2d 672, 673 (Colo. 1998). Weighed under that established legal framework, Petitioner Beck's hypotheticals about the problems of implementing Initiative #251 only prove that the Title Board set an appropriate title.

As for Petitioner Rasmussen, her challenge to the clarity of the title involves provisions that she claims the Initiative is *missing*, such as language about (1) contiguity; (2) the details of public meetings; and (3) the location of public meetings. Rasmussen Opening Br. at 11. As discussed *supra* at 2-6, Initiative #251 expressly governs mid-cycle redistricting, and *only* mid-cycle redistricting. It therefore does not change the ordinary redistricting process.

With that framing corrected, Petitioner Rasmussen's arguments collapse. Initiative #251 does *not* include contiguity or meeting requirements that mirror the constitution's provisions for in-cycle redistricting. Record, p. 16. The Initiative necessarily is not misleading by omitting provisions that it does not include. Indeed, Initiative #251 likely *would be* misleading (or at least confusing) if it expressly mentioned the non-operative and irrelevant requirements that Petitioner Rasmussen say are missing from the title that the Board set.

CONCLUSION

For these additional reasons, this Court should affirm the title set by the Title Board on Initiative #251.

Respectfully submitted on this 6th day of May, 2026.

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** Practice temporarily authorized pending admission under C.R.C.P. 205.6.

CERTIFICATE OF SERVICE

This is to certify that I have duly served the foregoing **THE TITLE BOARD'S ANSWER BRIEF** upon all counsel of record by Colorado Courts E-filing (CCE), this 6th day of May, 2026.

/s/ Carmen Van Pelt
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