

**RECEIVED**

By Steven Ward at 4:58 pm, Apr 25, 2012

**BEFORE THE COLORADO STATE TITLE SETTING BOARD**

---

**In re Ballot Title and Submission Clause for 2011-2012 Initiative No. 91 ("Sexual Abuse Statute of Limitations")**

**THOMAS W. COBLE, Objector.**

---

**MOTION FOR REHEARING**

---

Pursuant to C.R.S. § 1-40-107, Objector, Thomas W. Coble, a registered elector of the State of Colorado, by and through his legal counsel, Rothgerber Johnson & Lyons, LLP, hereby submits this Motion for Rehearing of the Title Board's April 18, 2012 decision to set the title of 2011-2012 Initiative No. 91 ("Initiative"), and states:

**I. The Initiative does not fall within a single subject because it will make both procedural and substantive changes to multiple areas of law.**

By including no less than two, and as many as seven, distinct subjects, the initiative violates the single subject requirement. *See* Colo. Const., art. V § 1(5.5).

1. Six different provisions make distinct *substantive* changes which respectively affect the rights of plaintiffs or defendants, or both, in lawsuits arising out of sexual abuse of a child. The Initiative's subject—the "statute of limitations for civil claims based on the sexual abuse of a child"—does not sufficiently connect these six provisions. Additionally, the subject does not sufficiently describe the entirety of the measure, which touches on subjects widely ranging from the types of recoverable damages to revival of time barred claims. *See generally* Proposed Ballot Initiative 2011-2012 No. 91, § 2. Thus, the Initiative is not a single subject because it potentially misleads voters in violation of the single subject requirement. *See, e.g., in re Proposed Initiative 1996-4*, 916 P.2d 528, 532-33 (Colo. 1996).

2. Further, a separate provision of the Initiative delegates to the "fact finder" the *procedural* determination of whether a person is "under disability" for the purposes of tolling. *See* Ballot Initiative 2011-2012 No. 91, proposed amendment to C.R.S. § 13-80-103.7(3.5)(a). Thus, even if the six distinct substantive changes in law are considered one subject, the Initiative violates the single subject requirement because it contains both procedural and substantive changes in law. *See in re Proposed Initiatives for 1997-98 Nos. 84 & 85*, 961 P.2d 456, 460-61 (Colo. 1997).

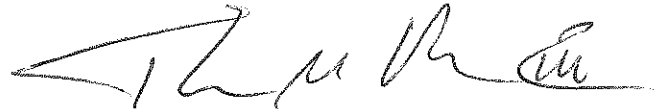
**II. The title is not fair or accurate because it contains a material omission.**

A ballot title must fairly express the true intent and meaning of the amendment, with no material omissions. C.R.S. 1-40-106(3)(b); *In re Ballot Title for 1997-98 No. 62*, 961 P.2d 1077,

1082 (Colo. 1998). The current title impermissibly omits the provision delegating to the fact-finder the determination of whether a person is "under disability" for tolling purposes. *See, e.g., in re Ballot Titles 2001-2002 Nos. 21 & 22*, 44 P.3d 213, 219-22 (Colo. 2002).

WHEREFORE, Objectors respectfully request that the Title Board set Initiative 91 for rehearing pursuant to C.R.S. 1-40-107(1).

DATED: April 25, 2012.



/s/ Thomas M. Rogers III

ROTHGERBER JOHNSON & LYONS, LLP

1200 Seventeenth St., Suite 3000

Denver, CO 80202

Phone: (303) 623-9000

Fax: (303) 623-9222

Email: trogers@rothgerber.com

Address of objector:  
Thomas W. Coble  
2805 S. Pierce St.  
Denver, CO 80227

**CERTIFICATE OF SERVICE**

I hereby certify that on April 25, 2012, a true and correct copy of this **MOTION FOR REHEARING** was served on proponents via email as follows:

Mark G. Grueskin  
HEIZER PAUL GRUESKIN, LLP  
2401 Fifteenth St., Suite 300  
Denver, CO 80202  
Phone: 303.595.4747  
Fax: 303.595.4750  
email: mgrueskin@hpgfirm.com  
*Attorney for Proponents*



---

Nathaniel S. Barker