SUPREME COURT, STATE OF COLORADO
CASE NO. 942C364

RULE 50 CERTIORARI TO THE COLORADO COURT OF APPEALS, 94CA0392 DISTRICT COURT, ARAPAHOE COUNTY 93CV185

---

**BRIEF OF THE COLORADO MUNICIPAL LEAGUE AS AMICUS CURIAE**

---

MARTIN G. BOLT, SR.; MAX R. NOEL; RICHARD A KONING,
on behalf of themselves and other similarly situated,

Petitioners/Plaintiffs/Appellants and Cross-Appellees,

v.

ARAPAHOE COUNTY SCHOOL DISTRICT NUMBER SIX, a/k/a LITTLETON PUBLIC SCHOOLS

Petitioner/Defendant/Appellee and Cross-Appellant, and

DAIN BOSWORTH INCORPORATED,

Petitioner/Intervenor/Defendant.

---

David W. Broadwell, #012177
COLORADO MUNICIPAL LEAGUE
1660 Lincoln Street, Suite 2100
Denver, Colorado 80264
(303) 831-6411

## TABLE OF CONTENTS

The Colorado Municipal League, amicus curiae, by and through its attorney David W. Broadwell, submits this brief in support of the Petitioner/Defendant/Appellee and Cross-Appellant Arapahoe County School District No. 6 and the Petitioner/Intervenor/ Defendant Dain Bosworth Incorporated.

## I. Issues Presented for Review

Of the issues to be decided in this case, the League addresses only the following in this brief:

1. Whether the Trial Court correctly ruled that the May 15, 1984 voter approval of the District's general obligation bonds along with the authority to impose a mill levy to support such bonds sufficed as "voter approval in advance" within the meaning of Colo. Const. Art. X, Sec. 20 (4), thereby allowing the District to increase the mill levy without additional voter approval on and after November 4, 1992.

2. Whether the Trial Court, in allowing the District to increase its mill levy to recoup abatements and refunds, correctly ruled that the phrase "directly causing a net tax revenue gain" as contained in Colo. Const. Art. X, Sec. 20 (4) (a) modifies all of the antecedent phrases in that section, including "tax rate increase" and "mill levy above that for the prior year."

3. Whether the Trial Court correctly ruled that the Court's sole function in evaluating reasonable, and that the District could effect a refund in this case via a property tax credit to all

owners of taxable property within the district as of January 1, 1994 pursuant to Section 39-1-111.5, C.R.S.

## II. Statement of the Case and Statement of Facts

The League hereby adopts and incorporates by reference the statements of the case and statements of facts contained in the District's and Dain Bosworth's opening and answer briefs.

## III. Summary of Argument

The Court's reasoning in its recent decision in Bickel v. Boulder, insofar as it reaffirms that conventional rules of construction will apply to Amendment 1, illuminates aspects of the fundamental purpose and operation of Amendment 1, and eschews claims under Amendment 1 which are not clearly supported by the text, should be applied to the issues in this case as well. The 1984 approval of the district's general obligation bonds (along with the tax revenue to support them) should be construed to suffice as "voter approval in advance" within the meaning of Amendment 1, Section 4, because, among other reasons, nothing in Amendment 1 expressly or impliedly repeals this or any other legislative enactment approved by local voters prior to November 4, 1992. The District's mill levy to recoup abatements should be permitted without voter approval because it does not result in a net tax revenue gain or otherwise cause the "growth of government." Again, this interpretation is fully supported by the text of Amendment 1. Finally, the Court should broadly affirm that property tax credits to current owners of real

property in the District is a reasonable method of effecting a refund under Amendment 1. Once again, this conclusion is clearly supported by the text of the Amendment. Each of these claims implicate legislative measures approved by the District, District voters, or the General Assembly. In none of these claims have the plaintiffs overcome the presumption that these measures are constitutional, or that these measures can and should be harmonized with Amendment 1 rather than being repealed by implication.

## IV. Argument

### A. Bickel v. Boulder provides the proper analytical framework within which the Court may resolve many of the issues in the instant case.

Although the facts and circumstances giving rise to the issues in this case obviously differ from those in Bickel v. Boulder, 18 Brief Times Reporter 1549 (Colo. 1994), the mode of analysis employed by the Court in that case should apply equally as well to the resolution of the various claims in this case. While the two cases differ in their particulars, they bear some remarkable thematic similarities.

For example, in yet another display of supreme irony, the plaintiffs in this case, as did the plaintiff in Bickel, are attempting to use Amendment 1 to undermine a measure which was approved by the voters of a local district, i.e. general obligation bonds popularly approved in 1984. The plaintiffs in this case are again using a constitutional amendment which was supposed to exalt the entire concept of direct democracy to defeat a particular exercise of direct democracy. This Court has already observed that the principal purpose and design of

Amendment 1 was to "protect citizens from unwarranted tax increases" by requiring a vote on taxes, Submission of Interrogatories on Senate Bill 93-74, 852 P.2d 1, 4 (Colo. 1993). However, just as in Bickel, we see plaintiffs in this case are mounting a frontal assault on the will of local voters as expressed at the ballot box.

Whether it be an election since the adoption of Amendment 1 as in Bickel or an election in May of 1984 as in this case, the same principle should apply: "We have recognized that '(e)lections should not be lightly set aside' and that, as a matter of public policy, courts should not invalidate the results of a bond election unless 'clear grounds' for such action is shown." Bickel, 18 B.T.R. at 1553, quoting Felzien v. School District RE-3 Frenchman, 152 Colo. 92, 96, 380 P.2d 572, 574 (1963). For this reason among others discussed below, the Court should reject Plaintiffs claims that Amendment 1 effectively nullified a measure which was approved by the voters prior to the adoption of Amendment 1.

Second, just as in Bickel, the plaintiffs in the instant case are urging the Court to acknowledge a host of phantom proscriptions allegedly implied by Amendment 1 but which are not really supported by the text itself. This the Court has refused to do.[1] Instead, the Court's analysis of Amendment 1 has been consistently and rigorously textual as the court has attempted to give full effect to the language actually contained therein, Dempsey v. Romer, 825 P.2d 44 (Colo. 1992). In keeping with this principle, most of the arguments contained in this brief are purely textual and, as more fully discussed below, the League continues to urge the court to

---

[1] For example, in Bickel the court specifically found no textual support for claims by the plaintiff that (1) Amendment 1 prohibits mill levy increases unlimited as to rate, p. 1557; (2) Amendment 1 prohibits language authorizing refunding bonds in the context of a ballot title for original bonds, p. 1558; (3) Amendment 1 prohibits a particular method for calculating reserve increases, p. 1560; (4) Amendment 1 prohibits the consolidation of bonded debt ballot questions with any other ballot questions, n. 11.

eschew revisionist explanations of Amendment 1.

To the extent that the Court has found the need to resort to extrinsic aids to interpret ambiguous or undefined terms in Amendment 1, the Court has condoned the use of conventional rules of statutory and constitutional construction, and has found nothing in Amendment 1 which would sweep away the sizeable body of case law which sets forth these rules, Bickel, 18 B.T.R. at 1554-1555. This is especially significant in the instant case because it mirrors precisely what the Trial Court did in ruling in favor of the District's ability to increase its mill levies as necessary to pay its bonds and recoup revenues lost due to abatements and refunds. In particular, as the Court did in Bickel, the Trial Court in this case emphasized the need to harmonize Amendment 1 with prior law whenever possible (and thereby avoid the prospect of wholesale "repeal by implication" of statutes and other legislative measures which predated Amendment 1), R. 863-864; Cooper Motors v. Commissioners of Jackson County, 131 Colo. 78, 279 P.2d 685 (1955); Colorado Common Cause v. Bledsoe, 810 P.2d 201 (Colo. 1991).

Finally, just as in Bickel and Submission of Interrogatories on Senate Bill 93-74, supra, the instant case once again offers the court an opportunity to consider the meaning of the term, "It's preferred interpretation shall reasonably restrain most the growth of government." Colo. Const. Art. X, Sec. 20 (1). The Court first acknowledged in the Interrogatories case that this phrase would indeed be a touchstone for construing the meaning and intent of Amendment 1, and therefore the applicability of the Amendment should be deemed to extend to any entity which is "essentially governmental in nature." 852 P.2d at 10. However, in Bickel, n. 13, the court indicated that this phrase will not necessarily be interpreted to justify a mindless pursuit of restraint for restraint's sake, or a particular interpretation which just happens to be the most

severe. Instead, as indicated by the text of Amendment 1, a particular interpretation must not only be most "restraining" but also "reasonable." As more fully discussed below, this refinement is especially germane in light of some of the more Draconian interpretations being urged by the plaintiffs in the instant case. Moreover, for the first time this case gives the Court the opportunity to apply the literal language of this phrase to support interpretations of Amendment 1 which limit "growth" but do not necessarily eviscerate existing levels of government services.

**B. The Trial Court correctly ruled that Amendment 1's requirement for "voter approval in advance" could be satisfied by a vote which occurred prior to November 4, 1992.**

The Trial Court ratified the District's ability to increase its debt service mill levy for two separate reasons: (1) the fact that prior voter approval had been obtained (R. 846-848); and (2) on an impairment of contract theory (R. 849-861). At the outset, the League wishes to emphasize its belief that the judgment below is correct on both theories, and that this Court should so affirm. However, for the sake of brevity the League will not rehash arguments on impairments of contract which have so capably been made by the District and Dain Bosworth, and instead the League will confine itself to supplementing the parties' arguments on "prior voter approval" given the potentially sweeping importance of this issue for Colorado municipalities.

It is presumed that Amendment 1 was "framed and adopted 'in the light and understanding of prior and existing laws and with reference to them.'" Bickel, 18 B.T.R. at

1554; quoting Carrara Place, Ltd. v. Arapahoe County Bd. of Equalization, 761 P.2d 197 (Colo. 1988); quoting Krutka v. Spinuzzi, 153 Colo. 115, 384 P.2d 928 (1963). Among other things, as the Court observed in Bickel, prior to the adoption of Amendment 1 there already existed in this State the concept of reserved legislative power in the people, as enshrined in Article V of the Constitution. Amendment 1 therefore did not invent from whole cloth the concept of "direct democracy" or "petition powers" in Colorado. Instead, it simply imposed additional restrictions on what legislative bodies could do absent voter approval. 18 B.T.R. at 1553.

In particular, a wide variety of municipal actions were already subject to "voter approval" prior to November 4, 1992. All municipal legislation has been subject to initiative and referendum since 1910 pursuant to Colo. Const. Art. V, Sec. 1 (9). All home rule municipalities are required to allow for initiative and referendum, Colo. Const. Art. XX, Sec. 5. Moreover, a myriad of statutes and local charter provisions already imposed mandatory voter approval requirements for a wide variety of fiscal matters.

For example, similar to Section 22-42-101, et seq., the school district bonded indebtedness statute which is at issue in this case, municipalities have been authorized to issue general obligation bonds with voter approval for many years under Section 31-15-302 (1) (d). (Of course, municipalities have always been constrained to obtain voter approval for any kind of debt under Colo. Const. Art. XI, Sec. 6.) Long before the adoption of Amendment 1, new or increased municipal sales and use taxes already required voter approval, Section 29-2-102, C.R.S. Certain property tax revenue increases in excess of statutory limits required voter approval, Section 29-1-302, C.R.S. Furthermore, a number of specific transactions which would directly implicate municipal revenue and spending also required voter approval, e.g. the

acquisition of utilities, Sections 31-15-707 and 31-32-201 (1), C.R.S., and the sale of public works and real property, Section 31-15-713 C.R.S. Many home rule charters contain similar counterpart provisions.

This list, which is not exhaustive, dramatizes the wide range of circumstances under which Colorado local governments were already obtaining voter approval for certain financial questions prior to the adoption of TABOR. Needless to say, as with the District general obligation bonds and supporting mill levy at issue in this case, each time a municipality obtained such voter authorization prior to November 4, 1992, it would have done so utilizing ballot wording and election procedures in conformance with the laws then in effect, laws which typically differ in their particulars from the requirements of Amendment 1.

Can or should Amendment 1 be read to have retroactive applicability to "voter approvals" which occurred at the local government level prior to November 4, 1992, even to the extent of wiping them out?

The Trial Court gave a broad reading to the phrase, "Starting November 4, 1992, districts must have voter approval in advance for. . ." as contained in Colo. Const. Art. X, Sec. 20 (4). The League urges this Court to do the same in the interest of preserving the viability of innumerable measures adopted pursuant to the people's reserved legislative power pursuant to the passage of TABOR. In support of this proposition, the League offers the following specific arguments:

As discussed above, it would be paradoxical to apply Amendment 1, a law whose principal purpose was to empower voters, in a manner which would vitiate measures which have indeed received voter approval.

Nothing in the text of Amendment 1 itself defines "voter approval in advance" or indicates that such approval must have been obtained on or after November 4, 1992 in order for a particular tax, debt or spending authorization to be valid. On the contrary, the text merely requires that the district "have" it. (If the framers of Amendment 1 had intended that only voter approval actually obtained at en election conducted after the adoption of the Amendment would suffice, they could have easily said so.)

The Court can reasonably harmonize Amendment 1 with prior law by reading the phrase "Starting November 4, 1992. . ." in relation to the use of the word "any" in subsections 4 (a) and (b). The text of Amendment 1 expressly acknowledges that "other limits on district revenue, spending and debt" predated the adoption of the Amendment, presumably including voter-approval requirements for certain fiscal matters, see Colo. Const. Art. X, Sec. 20 (1). However, such limits were apparently not comprehensive enough to suit the framers of Amendment 1. For example, while the constitution and statutes required voter approval for general obligation bonds as cited above, no similar restriction existed for revenue bonds. See e.g. Section 29-2-112 (2), C.R.S. While the statutes required voter approval for new municipal sales taxes as cited above, no similar restriction applied to municipal occupation taxes. See Section 31-15-501 (1) (c). Therefore, the operative word in Section 4 of Amendment 1 is "<u>any</u>", a word which simultaneously acknowledges that <u>some</u> of the tax and debt measures contained in Section 4 may have already required voter approval, but on and after the effective date of this Section (November 4, 1992), <u>all</u> of them would.

By its express terms, all of the details of Amendment 1 related to ballot wording and the conduct of elections did not take effect until December 31, 1992, Colo. Const. Art. X, Sec.

20 (1) Nothing in Amendment 1 expressly or impliedly purports to apply these requirements retroactively to elections which may have occurred prior to December 31, 1992. Cf. Ficarra v. Department of Regulatory Agencies, 849 P.2d 6 (Colo. 1983). Therefore, the validity of earlier elections at which voters may have approved any of the items listed in Section 4 cannot and should not be tested according to the directory procedures of Amendment 1, but instead must be judged according to the law then in effect.

Any interpretation of Amendment 1 which would require a redundant election on any matter which has already received voter approval would create an absurd result, and should therefore be avoided. Bickel, 18 B.T.R. at 1555; People v. Johnson, 797 P.2d 1296 (Colo. 1990); Ingram v. Cooper, 698 P.2d 1314 (Colo. 1985).

Finally, whether exercised by elected officials or directly by the voters through their reserved powers of initiative and referendum, there is little doubt that taxation and the incurring of debt are legislative matters. As such, they are entitled to the same presumptions as any other legislative enactment and should not be lightly set aside. In upholding a voter-approved bond issue in the face of a challenge to its constitutionality, this court has held, "it is sufficient to say that so much of these proceedings as can properly be considered legislative come within the general rule that where the constitutionality of legislative acts is questioned, all presumptions are indulged in their favor, and their invalidity must be established beyond a reasonable doubt." McNichols v. Denver, 101 Colo. 316, 323-24, 74 P.2d 99 (1937). Tax measures are also deemed to be legislative and are subject to the same standard of review. Gates Rubber Company v. South Suburban Metropolitan Recreation and Park District, 183 Colo. 222, 516 P.2d 436 (1973).

Plaintiffs' attempts in this case to ignore or invalidate what the District's voters approved in 1984 should be analyzed as a frontal assault on the present constitutionality of a legislative enactment. Potentially hanging in the balance in this case is the continuing viability of innumerable other enactments approved by local voters prior to the adoption of Amendment 1. Given the complete absence of any textual support for their position in Amendment 1, plaintiffs have not and cannot prove beyond a reasonable doubt that Amendment operates to repeal or otherwise invalidate tax and debt measures approved by local voters prior to November 4, 1992.

**C. The Trial Court correctly ruled that the phrase "directly causing a net tax revenue gain to any district" modifies all of the antecedents in Section 4 (a) of Amendment 1.**

The Trial Court found no irreconcilable conflict between Amendment 1 and Section 39-10-114 (1) (a) (I) (B), and ruled that the District could impose a mill levy to recoup amounts withheld for abatements and refunds, thereby allowing the District to retain a constant property tax revenue stream. R. 861-868. In so doing, the Trial Court relied upon a finding that Amendment 1 only required advance voter approval for mill levy increases which would result in a "net tax revenue gain" to the district.[2]

The imposition of a mill levy to recoup abatements and refunds is permissive for municipalities and other local governments, in contrast to the mandatory adjustment required of

---

[2] Since the decision by the Trial Court in this case, another district court has applied the same analysis, albeit reaching a different result. Muhm v. Board of County Commissioners of Arapahoe County, Denver District Court, 94 CV 3374, dec'd September 15, 1994. In assessing the constitutionality of a new county mill levy to recover reimbursements made from the county to the state, as ordered by the State Board of Equalization under the auspices of Section 39-1-105.5, Judge Hufnagel ruled, "The language of (Amendment 1) is clear, any 'mill levy above that for the prior year' which results in a 'net tax revenue gain' requires voter approval." In this case, the Court found the mill levy did indeed cause a revenue gain, and thus struck down the levy absent voter approval.

Once again, the most persuasive arguments supporting the Trial Court findings that only tax increases which cause net tax revenue gains require voter approval are textual. Requiring voter approval only for tax rate increase which result in a net revenue gain must be understood and appreciated in the context of all of the other provisions of Amendment 1.

It is not an understatement to say that Amendment 1 is obsessed with controlling, above all else, government revenue. As this Court previously observed in Submission of Interrogatories on Senate Bill 93-74, supra, the provisions of Amendment 1 which are denominated "Spending limits" are actually limitation on district revenue. 852 P.2d at 12. Under subsection 3 (c) of Amendment 1, tax increases are now required to be expressed in ballot titles as a dollar amount of new revenue. The principle mechanism for controlling the "growth of government" is a refund of excess revenue, as set forth in three separate provisions of Amendment 1: Section 1, Section 3 (c), and Section 7 (d).

Most importantly, however, nothing in the text of Amendment 1 supports an interpretation which would require the reduction of a government's revenue stream. On the contrary, the expressed purpose of Amendment 1 is to control government growth. "Its preferred interpretation shall reasonably restrain most the growth of government." Colo. Const. Art. X, Sec. 20 (1).

Previously, this court has looked to the Legislative Councils "Blue Book" to glean the general purpose and intent of Amendment 1 and other initiated constitutional amendments. Submission of Interrogatories on Senate Bill 93-74, supra, 852 P.2d at 4; Carrara Place Ltd. v. Arapahoe County Bd. of Equalization, supra, 761 P.2d at 203. The Legislative Council's analysis of Amendment 1 prior to its adoption supports the theme of limiting government

Once again, in ruling for the District on the refund issue in its order of December 29, 1993, the Trial Court relied squarely on the text of Amendment 1 and refused to substitute its judgment for the judgment of the School Board in determining a reasonable refund method. In so doing, the Trial Court eschewed the Plaintiffs' revisionist argument that Amendment 1 refund provisions somehow create a vested property right in certain individual taxpayers, a proposition for which there is absolutely no textual support in Amendment 1.

Refunds come into play under Amendment 1 in several distinct contexts. For example, as in this case, the need to effect a refund may be triggered by an "enforcement suit" under Section 1. However, districts may also unilaterally effect a refund when they find themselves in an excess revenue situation under Section 7 (d) or 3 (c). Whatever the triggering event, districts are vested with broad discretion to determine the appropriate refund technique under Section 1, subject to three distinct criteria:

1. The refund technique must be reasonable.
2. The refund need not be proportional when "prior payments are impractical to identify."
3. The refund need not be proportional when "prior payments are impractical. . .to return."

The distinction between the second and the third criteria are especially important in this case. Although, as argued by the plaintiff, prior property tax payments will generally be practical to identify, as shown by the District these payments would be extremely impractical to return. R.

941-942. (The Court should also bear in mind that, in the extreme case, a district's responsibility for a refund of property tax revenue may accrue over a four year period under Section 1. In such a circumstance, the original payment of taxes would still be capable of determination, but practicality of returning such payments becomes ever more dubious with the passage of time.)

Significantly, although Amendment 1 expressly and somewhat gratuitously allows judicial review of refunds, it does not change the standard of review which will apply in these cases. In the case of refunds as with any other decision related to taxation, the District's decision to effect a temporary property tax credit (as well as the General Assembly's enactment of Section 39-1-115 (1) which broadly condones and provides a formal procedure for effecting Amendment 1 refunds via temporary property tax credits) is entitled to a presumption of constitutionality, and the Plaintiff's bear the burden of proving these measures unconstitutional beyond a reasonable doubt. In particular, this standard of review applies in the face of the sort of due process and equal protection claims asserted by the Plaintiff's in this case. See: Gates Rubber Company v. South Suburban Metropolitan Recreation and Park District, supra; Colorado Department of Social Services v. Board of County Commissioners, 697 P.2d 1 (Colo. 1985).

Needless to say, it is somewhat difficult for the Plaintiffs to prove beyond a reasonable doubt that the refund technique selected by the District is unconstitutional when Amendment 1 expressly contemplates the use of temporary tax credits to effect a refund, and expressly relieves districts from the responsibility for making proportional refunds. Moreover, nothing in the text guarantees a "right" to a refund to any particular individual taxpayer. See: Bickel v. Boulder, 18 B.T.R. at 1552 ("The provisions of the amendment are worded not as creating 'rights' vested

in Colorado's taxpayers but as imposing limitations on the spending and taxing powers of state and local government.") On the contrary, successful plaintiffs in an "enforcement suit" are allowed only "costs and reasonable attorney fees" and even this language is not mandatory. Colo. Const. Art. X, Sec. 20 (1). Expressio unius est exclusio alterius. If the framers of Amendment 1 had intended that plaintiffs in Amendment 1 enforcement suits, either individually or as a class, would also be allowed some sort of vested slice of any refund pie arising from the suit, they could have easily said so.

The technique of providing a refund through a temporary property tax credit is obviously an efficient, least cost method of getting the job done. Both the District and the General Assembly, as supported by the express language of Amendment 1, have determined that property tax credits are a reasonable refund technique. In the absence of any clear showing that these determinations are unconstitutional, the Court is urged to grant all due consideration and deference to these efforts by coordinate branches of government to implement Amendment 1. Hudson v. Annear, 101 Colo. 551, 75 P.2d 587 (1938); Watrous v. Golden Chamber of Commerce, 121 Colo. 521, 218 P.2d 498 (1950)

## Conclusion

Wherefore, for the reasons set forth in this brief and the briefs submitted by the District and Dain Bosworth, the Colorado Municipal League respectfully urges this Court to affirm the judgment of the Trial Court to the effect that: (1) Any and all mill levy rate increases associated with the District's general obligation bonds have already received "voter approval in

advance" within the meaning of Amendment 1, Section 3 by virtue of the voter approval which occurred in 1984; (2) The District's mill levy to recoup abatements and refunds did not require prior voter approval because it did not result in a net tax revenue gain to the District; and (3) The use of property tax credits to effect a refund in this case would be reasonable under Amendment 1, Section 1.

Respectfully submitted this 17th day of October, 1994.

David W. Broadwell, #012177
COLORADO MUNICIPAL LEAGUE
1660 Lincoln Street
Suite 2100
Denver, Colorado 80264
(303) 831-6411

## CERTIFICATE OF MAILING

The undersigned hereby certifies on this 17th day of October, 1994, copies of the forgoing Brief of Amicus Curiae were placed in the U.S. Postal Service, postage prepaid, addressed to:

Kevin B. Pratt, Esq.
2 North Cascade Avenue, No. 480
Colorado Springs, Colorado 80903-1623

Stephen G. Everall, Esq.
Charles Kuechenmeister, Esq.
Banta, Hoyt, Green & Everall, P.C.
6300 South Syracuse Way, No. 555
Englewood, Colorado 80111

Cassandra G. Sasso, Esq.
Michael R. Johnson, Esq.
Craig N. Johnson, Esq.
Kutak Rock
717 Seventeenth Street
Suite 2900
Denver, Colorado 80202

Alan J. Canner, Esq.
Susan S. Schermerhorn, Esq.
Caplan & Earnest
2595 Canyon Boulevard, Suite 400
Boulder, Colorado 80302

Louis J. Davis, Esq.
5600 South Quebec Street, Suite 148-B
Englewood, Colorado 80111

Steven G. Smith, Esq.
Assistant Attorney General
Regulatory Law Section
1525 Sherman Street, 5th Floor
Denver, Colorado 80203

Stephen H. Leonhardt, Esq.
Craig A. Umbaugh, Esq.
Brent A. Waite, Esq.
Fairfield and Woods, P.C.
1700 Lincoln, Suite 2400
Denver, Colorado 80203-4524

Janice C. Sheftel, Esq.
Maynes, Bradford, Shipps & Sheftel
P. O. Box 2717
Durango, Colorado 81302