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BALLOT TITLE BOARD

ELECTIONS / LICENSING
SECRETARY OF STATE

MOTION FOR REHEARING

IN RE PROPOSED INITIATIVE FOR 2007-2008 # 36 ("DEFINITION OF A PERSON")

Elizabeth Annison, Ellen Brilliant, Trudy B. Brown, Vicki J. Cowart, Cathryn L. Hazouri, Jacinta Montoya, and Toni Panetta ("Petitioners") being registered electors of the State of Colorado, respectfully submit the following Motion for Rehearing, pursuant to C.R.S. § 1-40-107(1), concerning the actions of the Title Board at the hearing on July 18, 2007, regarding Proposed Initiative for 2007-2008 # 36 ("Definition of a Person"). Petitioners respectfully submit that the proposed initiative violates the single subject requirement of Colo. Const. art. V, § 1(5.5) and C.R.S. § 1-40-106.5, and that the Board does not, therefore, have jurisdiction to set a title. Petitioners also respectfully submit that the title, ballot title and submission clause established by the Title Board are unfair and do not fairly express the true meaning and intent of the proposed constitutional amendment as required by C.R.S. § 1-40-106. In support of this Motion, Petitioners submit the following specific objections:

Violation of Single Subject Requirement

1. The initiative expressly addresses three separate subjects by adding a definition to three different sections of Article II of the Colorado Constitution: Section 3 Inalienable Rights, Section 6 Equality of Justice; and Section 25 Due Process of Law. These sections have no necessary or proper connection as required by C.R.S. § 1-40-106.5(e). As evidence thereof, each right is contained in a separate section of the Article II.

2. Moreover, the proposed initiative does not allow a voter to consider the merits of changing the definition of "person" in each of the sections. Proposed initiatives are required to

have a single subject to prohibit "enlisting in support of the measure the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their own merits." C.R.S. § 1-40-106.5(e)(I). The proposed initiative does not allow each separate change in the Constitution to be considered on its own merits. For example, a voter could desire for the State of Colorado to make a policy statement and recognize that human beings from the moment of fertilization have inalienable rights. But the same voter might not want state funds used to appoint counsel to human beings from the moment of fertilization or grant them the right to bring a lawsuit. Joining these sections also has the precluded effect of "attracting support from various factions which may have different or even conflicting interests." *See In re Proposed Initiative "Public Rights in Waters II"*, 898 P.2d 1076, 1079 (Colo. 1995).

3. The proposed initiative hides the Proponents' stated purpose. At the hearing on July 18, 2007, Proponent Mark Meuser simultaneously stated that the purpose was to establish "personhood" in the unborn and to stop abortions. The proposed initiative says nothing of abortions and thus its hidden purpose violates Colorado law. *In re Proposed Initiative for 2005-2006 # 55*, 138 P.3d 273, 277-78 (Colo. 2006).

Title is Unfair and Misleading

1. The title is misleading because it does not disclose a significant purpose of the proposed initiative. At the Title Board Hearing on July 18, 2007, Proponent Mark Meuser stated that the purpose of the proposed initiative was to establish "personhood" in the unborn and also said that the purpose was to make abortion illegal. The title says nothing of abortion. This is misleading in violation of Colorado law. *See In re Proposed Initiative for 1999-2000 #258(A)*, 4 P.3d 1094, 1099 (Colo. 2000).

Respectfully submitted this 25th day of July, 2007.

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