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JUN 10 2009

BEFORE THE COLORADO STATE TITLE SETTING BOARD

ELECTIONS
SECRETARY OF STATE

.488P
3:09

Philip Hayes, a registered elector of the State of Colorado,

v.

Hitesh Patel and Gail Lindley, proponents of Initiatives 2009-10 #22, #23, and #24.

**MOTION FOR REHEARING
ON INITIATIVES 2009-10 #22, #23, AND #24**

Comes now, Phillip Hayes, a registered elector of the State of Colorado, by and through his counsel, Isaacson Rosenbaum P.C., to seek a rehearing of the titles and ballot titles and submission clauses ("Title") set for Initiatives 2009-10 #22, #23, and #24 ("Initiatives") by the Title Setting Board ("Board") on June 3, 2009, and in connection therewith, does state:

I. The Initiatives violate the single subject requirement of the Colorado Constitution for reasons that include the following:

A. The plain language of the first sentence of each of the Initiatives covers elections that are required (or, under #22 and #24, required) by law but that are unrelated to employee representation.

B. The reference to the "fundamental right" to a secret ballot is misleading and irrelevant, in light of the "guarantee" language in the measures. As such, it violates C.R.S. 1-45-106.5(1)(d) and appears to have been included for purposes of attracting electoral support.

II. The Titles set for the Initiatives are misleading and inaccurate for reasons that include the following:

A. In the alternative to allegations made under I. above, it is inherently misleading for the Initiatives' titles to refer to the "guarantee" of a "fundamental right" since fundamental rights are never, per se, guaranteed. They can be legislatively qualified, restricted, or even denied to entire classes of persons where the State can demonstrate an adequate justification for doing so, and the title cannot reflect the contrary through the misleading use of the term "guarantee."

B. The title set for Initiative #24 fails to inform voters that the use of a secret ballot in subparagraphs (2) (dealing with public entities) and (3) (addressing non-public entities) is a distinct right from that which is granted under subparagraph (1), because subparagraphs (2) and

(3) relate only to the specific act of actually "choos[ing] representatives," not the "election[], designation[], or authorization of employee representation" as set forth in subparagraph (1).

C. The title set for Initiative #24 fails to inform voters of the atypical and indistinct breadth of the definition of "political subdivision."

D. The title set for Initiative #24 incorrectly states that the "individuals" affected are those "in" an organization.

E. The titles set for Initiative #24 are not limited to "organizations."

By means of this Motion for Rehearing, it is respectfully requested that a rehearing be scheduled for the Board's next meeting on June 17, 2009 and either that the measure be returned to the proponents to cure the defects contained therein or that the ballot title and submission clause be corrected to accurately reflect the measure before voters.

Respectfully submitted this 10th day of June, 2009.

ISAACSON ROSENBAUM P.C.

By: 

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CERTIFICATE OF SERVICE

I hereby certify that on the 10th day of June, 2009, a true and correct copy of the foregoing **MOTION FOR REHEARING ON INITIATIVES 2009-10 #22, #23, AND #24** was served via U.S. mail, postage prepaid, to the following:

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