



APR 28 2010

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ELECTIONS
SECRETARY OF STATE

BEFORE THE TITLE SETTING BOARD

In the Matter of the Title, Ballot Title and Submission Clause Pertaining to Initiative 2009-2010 #51

MOTION FOR REHEARING

Peter D. Shultz, Rabbi Benjamin Arnold, and Reverend Nathan Woodliff-Stanley, registered electors of the State of Colorado, through their counsel Isaacson Rosenbaum P.C., move for a rehearing concerning the title, ballot title, and submission clause set for Initiative 2009-2010 #51, and in connection therewith, allege:

I. This initiative violates the single subject requirement, found in Article V, section 1(5.5) of the Colorado Constitution.

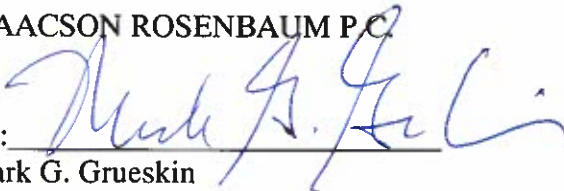
- A. The measure is so indefinite as to lack a single subject.
- B. It coils in the folds of the unburdened exercise of "religious liberty" a barrier against a broad, undefined, and unlimited set of "indirect burdens" which include:
 - 1. withholding any benefits, without qualification;
 - 2. assessing any penalties;
 - 3. exclusion from any programs; and
 - 4. exclusion from access to any facilities.

II. The ballot title is misleading, inaccurate, and not representative of the true intent of the proponents in violation of C.R.S. §§ 1-40-106, -107.

- A. The ballot title's incorporation of "sincerely held" to modify "religious beliefs," even though such phrase is found in the language of the initiative text, is prejudicial.
- B. The ballot title's reference to "undue" burdens is unwarranted and inaccurate.
- C. The ballot title fails to state that burdens may be imposed if a government has:
 - 1. a compelling interest; and
 - 2. uses the least restrictive means to further that interest.
- D. The ballot title incorrectly states that burdens result from religious beliefs rather than from a person's or an organization's actions or inactions that may stem from such beliefs.
- E. The ballot title fails to state that "burden" encompasses "indirect burdens" which would not typically be associated with restrictions on the exercise of religious liberty – namely, withholding benefits, assessing penalties, or exclusions from programs or access to facilities.
- F. The ballot title fails to state that the initiative text uses the term "includes" to refer to indirect burdens affected by the measure, which indicates that the measure's breadth is greater than the listed burdens.

Respectfully submitted this 28th day of April, 2010.

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CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of April, 2010, a true and correct copy of Motion for Rehearing was served via United States Mail, postage prepaid, to the following:

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