

APR 23 2014

BEFORE THE COLORADO BALLOT TITLE SETTING BOARD

Colorado Secretary of State

S.WARD 2:24 P.M.

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Marc Arnusch, Objector

vs.

Mike Callicrate and Jacquelyn Pyun, Proponents.

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**MOTION FOR REHEARING ON INITIATIVE 2013-2014 #101**

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Marc Arnusch, through legal counsel, Recht Kornfeld P.C., objects to the Title Board's title and ballot title and submission clause set for Initiative 2013-14 #101 ("Dairy Cattle Protection").

On April 18, 2014, the Board set the following ballot title and submission clause:

Shall there be an amendment to the Colorado constitution concerning the treatment of dairy cows, and, in connection therewith, prohibiting a dairy farm owner or operator from cutting or removing the tail of a dairy cow except when medically necessary to treat sick or injured cows; limiting the circumstances in which dairy cows may be confined in a way that restricts their ability to turn around freely; regulating the treatment of dairy cows that will not stand unassisted and their transfer to certain livestock facilities including slaughter houses and feedlots; and directing the enactment of implementing legislation, including penalty provisions?

**ADVISORY GROUNDS FOR RECONSIDERATION**

A. The title set violates the requirements for a single subject in a ballot initiative. Colo. Const. art. V, sec. 1(5.5).

1. The initiative regulates activities on farm lands and facilities where the exclusive activity is producing milk and dairy products as well as any place where an entirely incidental or naturally occurring production of milk or dairy products occurs.

2. The initiative regulates facilities dealing solely with the production of animals (i.e., dairy cows) as well as facilities dealing solely with the production of milk and/or dairy products.

B. Contrary to the statutory requirements for a ballot title that is not confusing, not misleading, and reflective of the intent of the proponents, C.R.S. §§ 1-40-106, -107, the Board has erred by setting the current title for this measure.

1. The title is misleading and should reflect the measure's true meaning, based on the initiative text, using the term "bovine" or "any living bovine" rather than "dairy cow."

2. If it uses the phrase "dairy farm," the title should reflect that a "dairy farm" is any land and improvements used wholly or partially to produce dairy cows or milk or other dairy products.

3. The title should reflect that the initiative prohibits both the act of bovine tail docking and the procuring of such act.

4. The title should reflect that the initiative prohibits only tail docking done "knowingly."

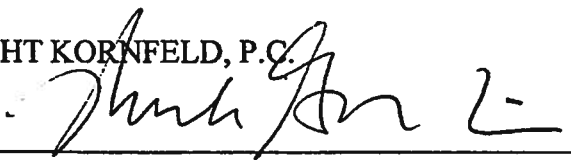
5. The title should reflect that the initiative prohibits the removal of "any portion" of a bovine's tail.

6. The title should: (a) define an "accepted animal husbandry practice;" and (b) state that, in the instance of criminal prosecution, accepted animal husbandry practices are not an affirmative defense and cannot be used to negate a criminal charges.

7. The title should state that the general assembly is being given authority to establish penalties for violations of this provision.

RESPECTFULLY SUBMITTED this 23<sup>rd</sup> day of April, 2014.

RECHT KORNFELD, P.C.

  
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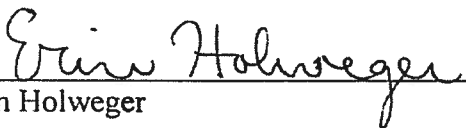
Marc Arnusch  
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**CERTIFICATE OF SERVICE**

I hereby affirm that a true and accurate copy of the **MOTION FOR REHEARING ON INITIATIVE 2013-2014 #101** was sent this day, April 23, 2014, via first class U.S. mail, postage pre-paid to the proponents at:

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