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APR 24 2013

**ELECTIONS/LICENSING
SECRETARY OF STATE**

SWARD
11:00 A.M.

Before the State Title Board

In re Ballot Title and Submission Clause for Initiative 2013-2014 #38
("Right to Purchase and Possess Ammunition Storage and Feeding Devices")

MOTION FOR REHEARING

George Kennedy and Donald Macalady, registered electors of the State of Colorado, by and through their counsel, Heizer Paul Grueskin LLP, hereby seek review of the ballot title set by the Title Board as stated below:

I. A hearing to set the ballot title for Initiative 2013-2014 #38 ("Initiative") was held on April 18, 2013. The Title Board found it had jurisdiction to set a title and the matter constituted a single subject, and the Board thereafter set a ballot title.

II. The Title Board erred both in setting any title and in the title it actually sent.

A. The Title Board was precluded from setting a ballot title for the Initiative, as the final draft of the Initiative submitted to the Secretary of State included a "title," which contravenes the mandates of state law. C.R.S. §§1-40-102(10), -105(4).

B. Contrary to the requirements of C.R.S. §§1-40-106 and -107, the ballot title set for the Initiative is unfair, inaccurate, ambiguous, and misleading for reasons that include but are not limited to:

1. The ballot title uses language – "prohibiting any... restriction... other than a restriction..." – that is ambiguous and would be inherently confusing to voters.


2. The ballot title is unfair by failing to state that the Initiative's prohibitions on legislated restrictions or limitations apply to "guns" and "gun magazines."

3. The ballot title is ambiguous and does not reflect the true intent of the measure, in that it incorrectly states that the Initiative's prohibitions apply to legislated restrictions or limitations that are "imposed" instead of "enacted."

4. The ballot title is misleading in stating that the Initiative's prohibitions on legislated restrictions or limitations are "capacity-based."
5. The ballot title is misleading in that it states that the Initiative's prohibitions apply to "restrict" purchase or possession of ammunition storage and feeding devices but makes no reference to the Initiative's stated prohibitions to also "limit" such purchase or possession.
6. The ballot title does not reflect that the Initiative's prohibitions on legislated restrictions or limitations, adopted as part of Article II of the Constitution, are a restriction on the general powers of the Colorado General Assembly as set forth in Article V.
7. The ballot title does not state that the Initiative's prohibitions on legislated restrictions or limitations are being placed in Colorado's Bill of Rights.
8. The ballot title is misleading and incomplete in failing to state that, according to the introductory text, the Initiative establishes a "right... to purchase and possess high capacity ammunition storage and feeding devices."
9. Based on the title of Section 32, the proponents intend "no limitation or restriction" on purchase and possession of ammunition and feeding devices, but this fact is not related by the ballot title.

Dated this 24th day of April, 2013.

HEIZER PAUL GRUESKIN LLP



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