

<p>SUPREME COURT OF COLORADO 2 East 14th Ave. Denver, CO 80203</p> <hr/> <p>Original Proceeding Pursuant to Colo. Rev. Stat. § 1-40-107(2) Appeal from the Ballot Title Board</p> <hr/> <p>In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2015-2016 #107 ("Colorado Redistricting Commission")</p> <p>Petitioners: Luis A. Corchado, Jason Legg, and Donna R. Johnson</p> <p>v.</p> <p>Respondents: Kathleen Curry and Frank McNulty</p> <p>and</p> <p>Title Board: SUZANNE STAIERT; FREDERICK YARGER; and JASON GELENDER</p>	<p>▲ COURT USE ONLY ▲</p>
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<p>PETITIONER DONNA R. JOHNSON'S OPENING BRIEF</p>	

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all requirements of C.A.R. 28 and C.A.R. 32, including all formatting requirements set forth in these rules. Specifically, the undersigned certifies that:

The brief complies with C.A.R. 28(g).

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It contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) a citation to the precise location in the record, not to an entire document, where the issue was raised and ruled on.

☐ For the party responding to the issue:

It contains, under a separate heading, a statement of whether such party agrees with the opponent's statements concerning the standard of review and preservation for appeal, and if not, why not.

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s/ Mark G. Grueskin

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ISSUES PRESENTED

Does Initiative 2015-2016 #107 violate Colo. Const., art. V, sec. 1(5.5), as it addresses distinct subjects of modifications to the state legislative reapportionment, a major overhauling of the congressional redistricting process, and a limitation on political involvement due to a person's activity in petitioning government?

STATEMENT OF THE CASE

A. Statement of Facts.

Initiative #107 would amend the Colorado constitution to vastly change the process to establish boundaries of state legislative districts (hereafter “reapportionment”), as well as the legally and procedurally separate process for drawing district lines for Colorado’s members in the U. S. House of Representatives (hereafter “redistricting”). Among its major provisions, #107:

- retains and renames the Reapportionment Commission, the constitutional body that was created by voters to address state legislative reapportionment for state senate and state house of representative seats every ten years;
- removes from the legislature its authority to set congressional district lines and allocates that role to the reconfigured reapportionment commission;
- sets in the Constitution, for the first time, the criteria to be used in establishing congressional districts;

- revamps and adds to the existing criteria for setting the boundaries of all state legislative districts;
- changes the process for appointing commissioners who will make both state legislative and congressional districting decisions and assigns the appointing authorities of all commissioners;
- imposes limits on who may serve on the commission, excluding any person who is a registered lobbyist, among others;
- authorizes only the legislative staff assisting the commission to draw district maps for its consideration;
- requires the commission to approve state legislative and congressional redistricting maps only by a 2/3 majority of its twelve members;
- creates formal rule making authority to be exercised by the commission, including the ability to set standards for removal of commissioners;
- sets an appeal process for the commission where it cannot make a decision as to a legislative reapportionment map but not where it cannot make a decision on a congressional redistricting map.

B. Nature of the Case, Course of Proceedings, and Disposition Below.

Kathleen Curry and Frank McNulty (hereafter “Proponents”) proposed Initiative 2015-2016 #107 (“#107”). A review and comment hearing was held

before representatives of the Offices of Legislative Council and Legal Services. Thereafter the Proponents submitted a final version of the Proposed Initiative to the Secretary of State for purposes of submission to the Title Board, of which the Secretary or his designee is a member.

A Title Board hearing was held on March 16, 2016 to establish the Proposed Initiative's single subject and set a title. On March 23, 2016, Petitioner filed a Motion for Rehearing, alleging that the Board did not have jurisdiction to set a title, the title was misleading, did not fairly and correctly express the true meaning of the Proposed Initiative, and will lead to voter confusion. The rehearing was held on April 6, 2016, at which time the Title Board granted in part the Motion for Rehearing to cure certain deficiencies in the title it had set. The Board set this title:

Shall there be an amendment to the Colorado constitution concerning redistricting in Colorado, and, in connection therewith, renaming the Colorado reapportionment commission as the Colorado redistricting commission; directing that the commission redistrict congressional districts as well as legislative districts; requiring appointment of 12 members with no more than four members from the same political party and at least four members not affiliated with any major party; prohibiting commission members from being lobbyists or incumbent members or candidates for either the state legislature or congress; adopting existing criteria for congressional districts and adding competitiveness to the criteria for state legislative and congressional districts; requiring that only the nonpartisan staff of the commission may submit plans to the commission; and requiring that the commission's work be done in public meetings?

SUMMARY

The Proponents violated the single subject requirement in drafting their initiative. The Title Board embraced that error by setting a ballot title.

Initiative #107 contains at least three subjects: (1) changing the existing Reapportionment Commission process for setting state legislative districts; (2) transferring from the General Assembly the power to set congressional districts to the revamped commission, applying new standards and procedures to this redistricting process; and (3) curtailing certain political involvement of all volunteer lobbyists, as well as all professional lobbyists, by prohibiting them from serving on the commission.

Pairing process changes to the legislative reapportionment with a major structural shift in responsibility for congressional redistricting (from the General Assembly and the courts to the combined redistricting commission), puts voters in the position of having to vote in favor of both competing policy priorities or vote to support neither. Voters may endorse adjusting the current independent Reapportionment Commission process but disagree that the commission is appropriate, well-structured, or even needed for congressional redistricting. Given that the Proponents have created a false premise – that both processes produce gerrymandered districts – only the Proponents benefit from packaging these two

proposals into an all-or-nothing “yes” or “no” vote. That packaging is exactly what the single subject requirement was enacted to avoid.

This Court previously has held that limiting an entire profession’s political involvement, as part of a measure that changes election-related procedures, is a second subject. The prohibition on lobbyists serving on a redistricting commission is no different than the prohibition on lawyers serving on the Title Board; both are a second subject that deprives the Board of jurisdiction to set a title.

Thus, the Board erred, and this initiative should be returned to Proponents.

LEGAL ARGUMENT

A. The Title Board lacked jurisdiction to set a ballot title because Initiative #73 violates the single subject requirement.

1. Standard of review; preservation of issue below.

The Colorado Constitution requires that any initiative must comprise a single subject in order to be considered by the Title Board. Colo. Const., art. V, § 1(5.5). Where a measure contains multiple subjects, the Board lacks jurisdiction to set a title. The Board’s analysis and this Court’s review is a limited one, addressing the meaning of an initiative to identify its subject or subjects. *In the Matter of the Title, Ballot Title and Submission Clause, and Summary for 1999-2000 No. 172, No. 173, No. 174, and No. 175*, 987 P.2d 243, 245 (Colo. 1999). To

find that a measure addresses only one subject, the Court must determine that an initiative's topics are "necessarily and properly" related to the general single subject assigned to the measure by the Title Board, rather than "disconnected or incongruous" with that subject. *In the Matter of the Title, Ballot Title and Submission Clause, and Summary Adopted April 17, 1996 (1996-17)*, 920 P.2d 798, 802 (Colo. 1996).

The single subject issues raised in this appeal were presented to the Board at the rehearing and thus preserved for review. See Donna R. Johnson's Motion for Rehearing on Initiative 2015-2016 #107 at 1-2 (¶¶ B.1, B.2, B.6).

2. Combining legislative reapportionment and congressional redistricting

There are multiple indicia of multiple subjects, stemming from the combination of legislative reapportionment and congressional redistricting.

a. Requiring voters to accept modifications to the existing legislative reapportionment commission as well as a major reconfiguration to the manner of congressional redistricting

This measure requires voters to choose whether the dual aspects of Initiative #107 – revamping the current commission process dealing with state legislative reapportionment and also eliminating the current legislative/judicial process dealing with congressional redistricting – are both objectives they support. While it is certainly conceivable that a voter would favor retention of the

Reapportionment Commission under its existing format but also favor a new commission for congressional redistricting, this section will consider his or her counterpart: the voter who: (1) is open to Proponents' changes to the legislative reapportionment; but (2) values the existing congressional district line-drawing debate through the General Assembly, and if it fails, the judicial fact-finding and application of law to evaluate competing maps.

Voters adopted the constitutional amendment that created the Reapportionment Commission to create a politically fair process for drawing state legislative district maps. "By its nature, reapportionment is an inherently political endeavor. The purpose of the reapportionment process, as approved in 1974, is to promote political fairness and to reduce the gerrymandering of legislative districts." *In re Colorado General Assembly*, 332 P.3d 108, 113 (Colo. 2011) (Bender, J. dissenting) (citing Legislative Council of the Colo. Gen. Assembly, *An Analysis of 1974 Ballot Proposals*, Research Pub. No. 206 (1974) at 29–30). There are possibly voters – the Proponents included – who believe that the process for configuring legislative districts has not worked as well as it could and who would favor some change to the state legislative reapportionment system.

But there are also voters – the Objector included – who find that the political tension in considering congressional districts to be the best approach to be

undertaken “by the legislature.” U.S. Const., Art., 1, § 4, cl. 1 (“The times, places and manner of holding elections for senators and representatives shall be prescribed in each state, by the legislature thereof”); *People ex rel. Salazar v. Davidson*, 79 P.3d 1221, 1232 (Colo. 2003). In Colorado, the congressional redistricting power, as exercised by the “General Assembly,” has “encompasse[d] the entire legislative process, as well as voter initiatives and redistricting by court order.” *Id.* at 1236.¹ This process has not resulted in gerrymandering, a point that requires no judicial speculation but instead is based on this Court’s clear precedent.

In 2011, this Court noted that the General Assembly had been unable to agree upon a congressional redistricting plan. *Hall v. Moreno*, 270 P.3d 961, 964 (Colo. 2012). Thereafter, the district court capably filled that role.

The (trial) court demonstrated a conscious effort to be as inclusive as possible. Prior to the trial, the court permitted any party who so desired to intervene in the case and also permitted any party to file an amicus brief. During the trial, the court permitted all proposed testimony and the vast majority of objections were overruled. Virtually no exhibits were excluded. In addition, the court permitted the parties to submit final revised maps after closing arguments, as well as amended proposed findings of fact based on other parties' final submitted maps.

¹ In other states, the legislative power has included the use of an independent redistricting commission. *Davidson, supra*, 79 P.3d at 1232; see *Arizona State Legislative v. Arizona Independent Redistricting Commission*, 135 S.Ct. 2652, 2671 (U.S. 2015) (“the Elections Clause permits the people of Arizona to provide for redistricting by independent commission”).

Id. at 965. The lower court considered all proposed maps using a “flexible and open approach” that “was admirable,” deciding upon a map that “reasonably balances the many non-constitutional factors that a court can consider.” *Id.* at 966, 974.

This fairness in redistricting was no anomaly. In 2001, after the legislature also fell short of consensus on a congressional district map, the district court employed an approach that was devoid of partisan pressure.

We determine that the process utilized by the district court in adopting a redistricting plan was **thorough, inclusive, and non-partisan**. The district court engaged in an even-handed approach to the complex and detailed process of congressional redistricting. It encouraged all parties and intervenors to submit proposed plans in order for it to adopt a plan that would reflect, as much as possible, the input of the general assembly and the governor, while satisfying the relevant constitutional and non-constitutional criteria.

Beauprez v. Avalos, 42 P.3d 642, 647 (Colo. 2002) (emphasis added). It resulted in thoroughly justified district line-drawing. “The district court was careful to explain its reasoning regarding the non-constitutional factors for each of the seven districts in the plan it adopted.” *Id.* And as this Court subsequently found in considering the first election held after the *Avalos* decision, “The plan did indeed end up being non-partisan.” *Davidson, supra*, 79 P.3d at 1227.

In Initiative #107, the Proponents create a false premise to mask the dual subjects of legislative reapportionment and congressional redistricting.

The people of the state of Colorado find and declare that fair representation requires that the practice of **political gerrymandering, whereby congressional, and senatorial and representative districts of the general assembly are purposefully drawn to favor one political party or incumbent politician over another or to accomplish political goals, must end.**

Proposed Article V, § 43.5 (emphasis added). But how can gerrymandering be possible under a congressional district map “that will maximize ‘fair and effective representation for all citizens,’” one that is “supported by the record, which was compiled through a thorough, open, and fair process”? *Hall, supra*, 270 P.3d at 982.

This is not an argument about the merits of the measure. It is, however, an acknowledgement that Proponents seek to gain approval of a change to congressional redistricting by calling past results of that process something they were not. If the 2011 congressional district map was a product of gerrymandering, this Court would not have approved the district court’s consideration of “competitiveness as an important factor in providing for the election of accountable and responsive representatives” or held it to be “consistent with the ultimate goal of maximizing fair and effective representation.” *Id.* at 973.

Initiative #107 holds out a carrot to groups that have an issue with one process – reapportionment or redistricting – but not the other. A surreptitious measure is one that seeks “to secure the support of various factions which may

have different or even conflicting interests.” *In the Matter of the Title, Ballot Title and Submission Clause for Initiative 2001-2002 #43*, 46 P.3d 438, 447 (Colo. 2002). Measures such as this one violate the single subject requirement precisely because their multiple objectives have the effect of “pushing voters into an all-or-nothing decision.” *In re Title, Ballot Title, and Submission Clause for Proposed Initiative 2009-2010 # 24*, 218 P.3d 350, 353 (Colo. 2009). It is this voting conundrum that the single subject requirement was intended to protect against.

Single subject concerns have been triggered where an existing election-related process is revised in its current application and then also extended to apply where it did not apply before. This Court so held in connection with changes to the recall election process. “In the case before us, some voters might favor altering the requirements or procedures for recalling elected officers but not favor establishing a new constitutional right to recall non-elected officers, or vice-versa.” *In re Title, Ballot Title, and Submission Clause for Proposed Initiative 2013-2014 #76*, 333 P.3d 76, 79 (Colo. 2014). Here, a commission that now sets district lines for state legislative seats would continue to do so, albeit under a changed regime, and its authority would be extended to set the lines of congressional districts for the first time in Colorado’s history.

Because voters should not be forced into a “yes” vote because they approve of one discrete change but oppose another, #107 violates the single subject mandate.

b. Distinct underlying legal authority for reapportionment and redistricting

The sources of authority for drawing legislative districts and congressional districts are entirely unrelated. The basis for congressional redistricting is found in the United States Constitution where responsibility for regulating elections is assigned to each state. U.S. Const., Art., 1, § 4. Congressional redistricting is mentioned in the Colorado constitution in an amendment to Article V, § 44 of the Colorado Constitution. This amendment, adopted by voters at the 1974 general election to revise language that had been in the Colorado Constitution since 1877, only states that the General Assembly must set these district lines. No criteria are set; no appointed body is established; no month-by-month procedure is mandated.

In contrast, the provisions for legislative reapportionment spring solely from the Colorado Constitution, where the current Reapportionment Commission is authorized. *See Colo. Const., Art. V, §§ 45-48.* For much of Colorado’s first century, legislative reapportionment was a sometimes occurrence, taking place in 1881, 1891, 1901, 1909, 1913, 1932, 1953, and 1962. *See Lucas v. Forty-Fourth General Assembly of State of Colo.*, 377 U.S. 713, 723 (1964). Later amendments

to the reapportionment provisions in the Constitution were by voters who also proposed and approved of the Reapportionment Commission for the setting of state legislative districts at the 1974 general election. *See* Colo. Const., art. V, § 48.

The reapportionment provisions of the Constitution are replete with direction about the criteria to be considered and the process to be used. In contrast, the congressional redistricting provisions are vague in the extreme. Other than the fact that both use the word “districts,” they have little or nothing to do with each other.

In stark contrast to its elaborate provision for state senate and representative districts, *see* Colo. Const. art. V., §§ 46–48, the state constitution provides almost no guidance for or limitation on the general assembly's division of the state into congressional districts, *see* Colo. Const. art. V., § 44, other than requiring it do so.

Hall, supra, 270 P.3d at 982 (Coates, J., concurring).

Further, the intertwining of the reapportionment and redistricting processes was attempted in *Hall* but rejected because it was legally flawed. As to one of the intervenor maps, proposed by the Colorado Latino Forum and Colorado Hispanic Bar Association (“CLF/CHBA”), this Court observed:

[T]he [district] court found the CLF/CHBA's “nesting” approach problematic. Under the nesting approach, the maps were drawn by combining five state senate districts developed by the 2011 Colorado Reapportionment Commission. The court rejected this approach because the **state reapportionment criteria and policies are different from the redistricting criteria** and because the Commission's map had not been approved by this court at the time that the CLF/CHBA maps were submitted.

Id. at 968 (emphasis added). And while the CLF/CHBA map was not at issue before this Court, the district court’s conclusion is relevant here: the redistricting and reapportionment considerations are inconsistent enough with one another as to make aggregating the two processes a jumble of constitutional subjects and processes.

That these processes are addressed separately in the Constitution is an additional factor to be considered in this analysis. A proposal dealing with “varied procedural and substantive provisions” affecting citizen-initiated rights (referendum, recall, and initiatives) was reviewed by the Supreme Court. The different sources of seemingly related rights was one concern to the Court in its holding that the proposed measure violated the single subject requirement. *In re Title, Ballot Title, and Submission Clause and Summary with Regard to Section 2 to Article VII (“Petition Procedures”)*, 900 P.2d 104, 109 (Colo. 1995) (“Colorado Constitution treats these different citizen initiated measures in separate sections”).

In determining severability of state law, the Colorado Supreme Court agreed that legislative reapportionment in an initiative is its own subject. In *In re Interrogatories Propounded by the Senate Concerning House Bill 1078*, 536 P.2d 308 (Colo. 1975), the Court evaluated two initiatives dealing with changes to the process for setting legislative district boundaries.

At the general election in Colorado, held on November 5, 1974, among other propositions on the ballot were No. 6 and No. 9, being proposed constitutional amendments relating to reapportionment. Amendment No. 6 was addressed to several other subjects, while Amendment No. 9 was solely concerned with reapportionment.

Id. at 311. As the Court observed, “We wish to make clear that Amendment No. 6 related to **many subjects other than Colo. Const., Art. V, §§ 46 and 48**. Each of the subjects appears to be severable.” *Id.* at 319 (emphasis added). Thus, reapportionment was and is a unique subject.

As evidence that redistricting and reapportionment are separate subjects, these Proponents also submitted Initiatives 2015-2016 #128 and 133, which deal with congressional redistricting and legislative reapportionment separately. Those measures contain distinct standards and commission authority to draw district lines. Necessarily, then, the subjects of resetting the process for drawing lines of legislative districts and the procedure for creating boundaries for congressional districts are “distinct and separate purposes which are not dependent upon or connected with each other.” *In re Proposed Initiative on “Public Rights in Water II”*, 898 P.2d 1076, 1078-79 (Colo. 1995).

Thus, the two processes are unrelated in terms of their root legal authority and their legal history in Colorado. They cannot be part and parcel of the same subject under Article V, § 1(5.5).

c. Creating new standards and expanding commission jurisdiction

Initiative #107 changes both legislative reapportionment and congressional redistricting in significant ways. As to congressional redistricting, this proposal:

- transfers redistricting from the General Assembly to a commission, Proposed Art. V, § 44;
- requires the commission to use specific standards, many of which are now found in statute, to guide the courts' consideration of redistricting, Proposed Art. V, § 47.5(1)(a), (b);
- requires the consideration of additional standards, not found in statute, including maximizing competition² and precluding plans drawn to favor a political party, incumbent legislator, member of congress, or "other person," Proposed Art. V, §§ 47.5(1)(c), 48(2)(c); and
- mandates that legislative staff draw a congressional redistricting map for the commission and submit such map to the Supreme Court if the staff cannot present a map to the commission, Proposed Art. V, §§ 48(1)(a), (2)(a).

² Although competitive districts were endorsed in *Hall v. Moreno*, it was not a mandated standard under the statute concerning judicial consideration of congressional redistricting. Given that the statute is "open-ended," the district court found competitive districts made it more likely that a member of Congress would attend to a voter bloc's "needs and preferences," maximizing the potential for "fair and effective representation." 270 P.3d at 972-73. However, competition is not specified or required by current law.

As to state legislative districting, this proposal:

- maintains the task of district line-drawing by the renamed reapportionment commission, Proposed Art. V, § 48(1)(a);
- changes the criteria for drawing districts by adding standards, including maximizing competition³ and precluding plans drawn to favor a political party, incumbent legislator, member of congress, or “other person,” Proposed Art. V, §§ 47(4), 48(2)(c);
- requires a 2/3 vote among commissioners to approve a reapportionment plan rather than a majority as in current law, Proposed Art. V, § 48(1)(f);
- changes the appellate process where the commission agrees by super-majority to a map Proposed Art. V, § 48(3)(g), (h);
- authorizes staff to draw maps to be submitted to the Supreme Court if staff cannot present a map to the commission, Proposed Article V, § 48 (2)(a)(II);
- requires the commission, where it cannot achieve a 2/3 consensus on its first, second, or third maps, to submit the second map to the Supreme Court for approval, Proposed Article V, § 48 (2)(d); and

³ Currently, competitiveness is not explicitly part of legislative reapportionment. “Other nonconstitutional considerations, such as the competitiveness of a district, are not per se illegal or improper; however, such factors may be considered only after all constitutional criteria have been met.” *In re Colorado General Assembly*, *supra*, 332 P.3d at 111.

- allows the reconfigured commission to establish rules so it may remove a commissioner for cause and mandates removal of any commissioner who has an ex parte contact. Proposed Art. V, §§ 48(1)(g)(2), (2)(b)(2).

The creation of a new government agency and the creation of new legal standards (maximizing competition in drawing both legislative and congressional districts, for instance) is akin to this Court's holding in *In the Matter of the Title, Ballot Title and Submission Clause for Initiative 2007-2008 #27*, 172 P.3d 871 (Colo. 2007). There, a public trust standard was created to be applied to water matters by the same proposed initiative that created a new environmental department by reorganizing existing programs, boards, and commissions. *Id.* at 873. An initiative that changes a public entity's structure and standards, if "complex and subtly worded," will violate the single subject requirement where there is "the danger of voter surprise and fraud" because one such change may eclipse the other in terms of voter awareness. *Id.* at 875.

3. Limits on political involvement for anyone who is a "registered lobbyist"

Initiative #107 prohibits any person who is a "registered lobbyist" from serving on the Commission. This prohibition would apply to any person who is either a professional lobbyist or a volunteer lobbyist. *See* C.R.S. § 24-6-301(3.7) ("'Lobbyist' means either a professional or volunteer lobbyist.")

This single subject issue is controlled by a clear holding on another ballot initiative that sought to restrict political involvement based on a person's profession. In *In re Title, Ballot Title and Submission Clause for 2003-2004 #32 and #33*, 76 P.3d 460, 462 (Colo. 2003), the Supreme Court considered an initiative that changed the process for initiative qualification and also prohibited the Attorney General and any other lawyer from participating in the ballot title setting process as "ballot title setters." The Court's holding is instructive.

More generally and perhaps more importantly, however, the provision also limits the substantive rights of all attorneys. By foreclosing any possibility that an attorney could serve on the title board, **these initiatives restrict the political rights of all attorneys.** Under our prior decisions, **this exclusion from the political process is a substantive matter, not a procedural change** to the petitions process. See *Evans v. Romer*, 854 P.2d 1270 (Colo.1993), *cert. denied*, 510 U.S. 959, 114 S.Ct. 419, 127 L.Ed.2d 365 (1993)....

In the case at hand, the four initiatives propose that a specifically identifiable group, lawyers, be excluded from the ballot title board. Although this provision is much more limited than the exclusion in *Evans v. Romer*, **it does affect the substantive rights of attorneys to participate in the political process.** It has no necessary or proper connection to the purpose of the proposed measures, i.e., to liberalize the procedure for initiative and referendum petitions.... Because **these proposed measures would affect existing substantive rights in addition to the primary subject concerning the procedural mechanisms** of the initiative and referendum process, # 21 and # 22 do not comply with the single subject requirement.

#32 and #33, *supra*, 76 P.3d at 462-63 (emphasis added).

In the same way, Initiative #107 prohibits any person who lobbies, either as a professional or as a volunteer, from serving on the Commission. This is true even though a person may lobby at one level (federal vs. state) but not the other. It is also true that it is simply the fact of political participation that can disqualify one as a possible commissioner. Thus, a person who lobbies for the League of Women Voters,⁴ for instance, on issues such as openness in government or fairness of elections is prohibited, from also participating as a commissioner who helps draw the lines of legislative and congressional districts. *See* C.R.S. § 24-6-301(3.5)(a)(I), (II.5), (IV) (“lobbying” means communicating directly or soliciting others to communicate with a covered official on a wide variety of matters, including any legislation, report, fiscal impact statement, or agency rule or standard).

This additional subject – the exclusion of a “specifically identifiable group” from participation in the political process – violates Article V, § 1(5.5).

CONCLUSION

Petitioner respectfully requests that, after consideration of the parties’ briefs, this Court determine that the Proposed Initiative violates the single subject

⁴ *See* Exhibit A, attached hereto (list of volunteer lobbyists for current legislative session).

requirement and thus the Title Board lacked jurisdiction to set such title for the Proposed Initiative, rendering the ballot title void.

Respectfully submitted this 3rd day of May, 2016.

/s/ Mark Grueskin

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ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I, Erin Holweger, hereby affirm that a true and accurate copy of the **PETITIONER DONNA R. JOHNSON 'S OPENING BRIEF** was sent this day, May 3, 2016, via ICCES to counsel for the Title Board and the Proponents:

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Matthew Grove
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1300 Broadway, 6th Floor
Denver, CO 80203

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/s Erin Holweger

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Akinahew, Serena L CCDC	(H) 18224 E. Layton Pl. Aurora CO 80015	(H) 720.256.8
Atwood, Frank F Approval Voting	(O) 7094 South Costilla Street Littleton, CO 80120-3518	(O) 720-260-
Augden, Sally League of Women Voters	(H) 4482 Quitman Street Denver, CO 80212	(H) 303-455-
Clinton, Carisa CCDC	(O) 1121 W. Prospect Rd. Ft. Collins 80526	(O) 970.204.(
Cloven, Matthew ARC of Larimer County	(O) 1121 W. Prospect #140 Fort Collins CO 80526	(O) 970-204-
DeBey, Kenneth Colorado Alliance for Retired Americans	(H) 10650 West 87th Place Lakewood, CO 80215	(H) 303=233-
Diana, Milne Colorado Cross-Disability Coalition	(O) 855 Broadway Denver, CO 80203	(O) 303-839-
Edmiston, Robert E Colorado Citizens for Sound in Medicare	(O) 721 S Maiposa Way Denver, CO 80223	(H) 303.935.(
Fahrenbruch, Karin CCDC	(H) 1303 N. Wilson #102 Loveland CO 80537	(O) 970-221-
Fahrenbruch, Melody L CO Cross Disability Coalition	(H) 735 14th Street #106 Loveland CO 80537	(H) 970-581-

Exhibit A

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Fahrenbruch, Melody L CO Cross Disability Coalition	(H) 735 14th Street #106 Loveland CO 80537	(H) 970-581-
Grattet, Jean League of Women Voters	(O) 1410 Grant Street B204 Denver, CO 80203	(O) 303-863-
Hanilton, Richard G Action for Public Trust The South Park Coalition Citizens Progressive Alliance	(O) 531 Front St Fairplay, CO 80440	(O) 720.483.:
Hart, Linda K Colorado Federation of Dog Clubs, Inc	(O) PO Box 265 Littleton, CO 80160	(O) 303.842.:
Haven, Robert D Colorado Cross Disability Coalition	(O) 655 Broadway #775 Denver, CO 80203	(O) 303-839- (H) 303-564-
Hillery, Jeannette League of Women vters	(O) 1410 Grant Street B 204 Denver, CO 80203	(O) 303-863- (H) 303-494-
Hillery, Jeannette League of Women Voters	(O) 1410 Grant St Denver, CO 80203	(O) 303.494.:
Huber, Blake Approval Voting USA	(O) 7094 S. Costilla Way Littleton, CO 80120 (H) 655 S. Clinton 655 S. Clinton St. #3B Denver, CO 80247	(H) 720.254.:
Hutter, Sheryle A CCDC PAD-CO EJF S.A.V.E. ADAPT	(H) 935 S Joliet St Aurora, CO 80012	(H) 303.364.:
Hutter, Ron K Self ARC of Aurora	(O) 935 S Joilet St Aurora, CO 80012	(O) 303.364.:

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Hutter, Ron K Self ARC of Aurora	(O) 935 S Joilet St Aurora, CO 80012	(O) 303.364.:
Hutter JR., Ron CCDC		
Jones Glischowsky, Gregoy D ERROR Incorrect data type for operator or @Function Text expected AARP	(O) 5160 S Pitkin St Centennial CO 80237	(O) 303.331.4
Levine, Jonna C 7859 W. 38th Ave	(O) 7859 W. 38th Ave. Wheatridge, CO 80033	
Levutt, Burchan L Self	(O) 2668 West Colfax Ave Denver, CO 80219	(O) 720-628-
McVaney, James M Industrial Hemp in Colorado LLC	(O) PO Box	
Medbery, Angela Colorado Pesticide Network	(O) 2205 Meade St Denver, CO 80211	(O) 303.433.:
Merrill, Forrest Nicole R Colorado Cross Disabiltiy Coalition	(H) 6150 W. 13th Ave Lakewood, CO 80214	(O) 720.231.:
Moffatt, Ramona J CO Alliance for Retired Americans	(O) 140Sheridan Blvd. Denver, CO 80226	(O) 303.980.9
Nofles, Jean Legislative Advocate - AARP	(O) 303 17th ST denver, CO 80203	

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Norris, Olympia Posterity Productions, LLC	(O) 2200 Market Street Denver CO 80205	(H) 310-254-
Officer, Derek R Social Justice and Environmental Issues	(O) PO Box 876 Denver CO 80201	(O) 303-915-
Pace, Carol League of Women Voters-----AARP	(O) 1410 Grant Street B204 Denver, CO 80203	(O) 303-863-
Robertson, Aaron The Patriot League	(O) PO Box 1435 Eastlake, CO 80614	(O) 303.876.6 (H) 719.495.5
Rosa, Linda A Providing information on pbstroca; cpmsumer advocacy	(H) 711 W 9th St. Loveland, CO 80537	(O) 970.667.1
Rosser, Edwin "Mike" M ERROR Incorrect data type for operator or @Function Text expected AARP Colorado Mortgage Lenders Associaiton	(O) 12478 E Ameherst Cirlce bldg A, Suite 80222 Auora, CO 80014	(O) 303.887.8
San Miguel, Sophia C	(H) 5520 Federal Blvd. #52 Denver 80221	(H) 720-907.1
Stoker, RJ CCDC	(O) 900 Marmot Ct. Longmont 80504	
Welch, Maureen P self	(H) 4896 South Clarkson St. Cherry Hills Village, CO 80113	(H) 720.436.4

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Welch, Maureen P self	(H) 4896 South Clarkson St. Cherry Hills Village, CO 80113	(H) 720.436.4
Whinery, Barbara League of Women Voters	(H) 235 North 39th Place Greeley, CO 80634	(H) 970-353-
Williams, Shannon M CCDC	(H) 6093 S. Beeler Greenwood Village 80111	
Wren, Randy M		
Wright, Hal V Coloradans for Alternatives to the Death Penalty	(H) 7311 South Marion St Centennial, CO 80122	(H) 303-795 :
Yott, Paul L CCDC, Veterans Military Affairs	(H) 1203 E 108th Ave Northglenn 80233	(H) 303.254.7