

petition this Court pursuant to § 1-40-107(2), C.R.S. (2005), to review the actions of the Ballot Title Setting Board with respect to the setting of the title, ballot title, and submission clause for proposed Initiative 2005-2006 #109 ("Prohibition on Legal Status Similar to Marriage").

I. Actions of the Ballot Title Setting Board

The Title Board conducted its initial public meeting and set titles for proposed Initiative 2005-2006 #86 on May 17, 2006. The Petitioners filed a Motion for Rehearing pursuant to § 1-40-107(1), C.R.S. (2005), on May 24, 2006. The Motion for Rehearing was heard at the final meeting of the Title Board for this election cycle on May 25, 2006. At the rehearing, the Board denied Petitioners' Motion. Petitioners hereby seek review of the final action of the Title Board with regard to proposed Initiative 2005-2006 #109 pursuant to § 1-40-107(2), C.R.S. (2005).

II. Issues Presented

A. The ballot title violates the single subject requirement because the phrase, "similar to marriage," is so broad and so vague that it necessarily will mean different things to different voters. Given its inherent ambiguity, this initiative is the epitome of a surreptitious ballot measure and thus violates the single subject requirement provided by Colo. Const., art. V, sec. 1(5.5).

B. Initiative #109 is centered around a purposefully obscure phrase, "similar to marriage." Because the ballot title merely repeats this indecipherable phrase, voters cannot understand the effect of a "yes" or "no" vote, and the title is thus misleading in violation of Colorado law.

III. Supporting Documentation

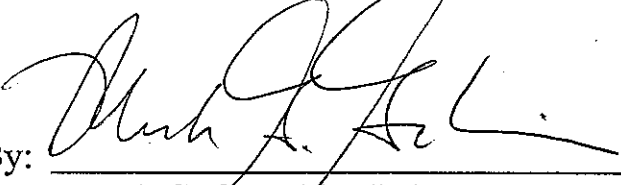
As required by § 1-40-107(2), C.R.S. (2005), a certified copy of the Petition, with the titles and submission clause of the proposed constitutional amendment, together with a certified copy of the Motion for Rehearing and the rulings thereon, are submitted herewith.

IV. Relief Requested

Petitioners respectfully request this Court to reverse the actions of the Title Board with directions to decline to set a title and to return the proposed Initiative to the proponents.

Respectfully submitted this 1st day of June, 2006.

ISAACSON ROSENBAUM P.C.

By: 
Mark G. Grueskin, #14621

ATTORNEY FOR PETITIONERS

Addresses of Petitioners:

Jean Dubofsky
1000 Rose Hill Drive
Boulder, CO 80302

Patrick Steadman
1257 Corona St.
Denver, CO 80218

CERTIFICATE OF SERVICE

I hereby certify that on this 1st day of June, 2006, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2005-2006 #109 ("PROHIBITION ON LEGAL STATUS SIMILAR TO MARRIAGE")** was placed in the United States mail, postage prepaid, to the following:

Michael J. Norton, Esq.
Burns, Figa & Will
6400 S. Fiddler's Green Circle,
Suite 1030
Englewood, Colorado 80111

Maurice G. Knaizer, Esq.
Deputy Attorney General
Colorado Department of Law
1525 Sherman Street, 5th Floor
Denver, Colorado 80203





STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, **GINETTE DENNIS**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2005-2006 #109"...

.....IN TESTIMONY WHEREOF I have unto set my hand
and affixed the Great Seal of the State of Colorado, at the
City of Denver this 26th day of May, 2006.

GINETTE DENNIS

SECRETARY OF STATE

STATE OF COLORADO
Department of State
1700 Broadway
Suite 270
Denver, CO 80290



Ginette Dennis
Secretary of State

J. Wayne Munster
Acting Director, Elections Division

May 23, 2006

NOTICE OF REHEARING MEETING

You are hereby notified that the Secretary of State,
Attorney General, and the Director of the Office of Legislative

Legal Services will meet to consider all

Motions for Rehearing filed by the deadline of

Wednesday, May 24, 2006 at 5:00 p.m.

Meeting will take place on

Thursday, May 25, 2006 at 9:00 a.m.

Secretary of State's Blue Spruce Conference Room

1700 Broadway, Suite 270

Denver, Colorado

You are invited to attend.

GINETTE DENNIS
Secretary of State

AUDIO BROADCASTS NOW AVAILABLE. PLEASE VISIT WWW.SOS.STATE.CO.US AND CLICK ON THE "INFORMATION CENTER".

RECEIVED

MAY 24 2006

ELECTIONS / LICENSING
SECRETARY OF STATE

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4:40 P.M.

COLORADO TITLE SETTING BOARD

In re Title and Ballot Title and Submission Clause Set For Initiative 2005-06 #109

MOTION FOR REHEARING

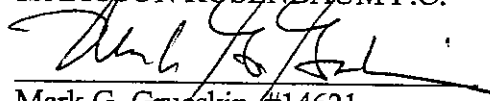
On behalf of Jean Dubofsky and Patrick Steadman, registered electors of the State of Colorado, the undersigned moves for a rehearing of the title and ballot title and submission clause set for Initiative 2005-06 #109 on May 17, 2006.

A. The ballot title violates the single subject requirement because the phrase, "similar to marriage," is so broad and so vague that it necessarily will mean different things to different voters. As such, voters will not comprehend the scope or nature of this measure and may unintentionally vote to prohibit the state and its political subdivisions from recognizing a wide variety of legal relationships that are generally accepted today. While proponents of an initiative have latitude in crafting their measure, they cannot use key phrases that defy common understanding and have the effect of surreptitiously changing current law. In the Matter of the Title, Ballot Title and Submission Clause, and Summary for Initiative 1999-2000 #25, 974 P.2d 458, 467 (Colo. 1999) (Title Board must be able to discern the consequences of a measure in order for it to find that the measure reflects a single subject); § 1-40-106.5(1)(e)(II), C.R.S.(single subject requirement intended to prevent surreptitious measures from being presented to voters and to prevent surprise and fraud from being practiced upon voters).

B. Initiative #109 is centered around a purposefully obscure phrase, "similar to marriage," and the ballot title which merely repeats this phrase is misleading and does not accurately or fairly relate the legal changes flowing from adoption of this initiative. In the Matter of the Title, Ballot Title and Submission Clause, and Summary for Initiative 1999-2000 #29, 972 P.2d 257, 268 (Colo. 1999) (clear ballot title cannot be set where a ballot measure contains a "material ambiguity or concealed intent" in connection with one of its central provisions); § 1-40-106(3)(b), C.R.S. (voters must be able to understand the "effect of a 'yes' or 'no' vote").

Respectfully submitted this 24th day of May, 2006.

ISAACSON ROSENBAUM P.C.



Mark G. Grueskin, #14621
633 17th Street, Suite 2200
Denver, CO 80202
Phone: 303-292-5656
Fax: 303-292-3152

Addresses of Objectors:

Jean Dubofsky
1000 Rose Hill Drive
Boulder, CO 80302

Patrick Steadman
1257 Corona St.
Denver, CO 80218

CERTIFICATE OF SERVICE

I hereby certify that on the 24 th day of May, 2006, a true and correct copy of the foregoing **MOTION FOR REHEARING** was sent via facsimile device to the following:

Michael Norton, Esq.
Burns Figa & Will
6400 S. Fiddler's Green Circle, #1030
Englewood, CO 80111
FAX: 303-796-2777



RECEIVED

APR 26 2006

ELECTIONS/LICENSING
SECRETARY OF STATE

PROPOSED INITIATIVE
2005-2006 #109

Be it Enacted by the People of the State of Colorado:

SECTION 1. Article II of the Colorado constitution is amended BY THE ADDITION OF A NEW SECTION to read:

Section 32. Legal Status of Marriage.

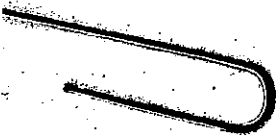
NEITHER THE STATE NOR ANY OF ITS POLITICAL SUBDIVISIONS MAY CREATE OR RECOGNIZE A LEGAL STATUS SIMILAR TO THAT OF MARRIAGE, AS DESCRIBED IN SECTIONS 14-2-101 THROUGH 14-2-104, COLORADO REVISED STATUTES (2005), FROM THE "UNIFORM MARRIAGE ACT".

SECTION 2. Effective date.

This section shall take effect upon proclamation of the vote by the governor.

Representative **Clevin Lundberg**
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Ballot Title Setting Board

Proposed Initiative 2005-2006 #109¹

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado constitution prohibiting the creation or recognition by the state or its political subdivisions of a legal status similar to that of marriage, as described in the "Uniform Marriage Act" in the 2005 version of the Colorado Revised Statutes.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado constitution prohibiting the creation or recognition by the state or its political subdivisions of a legal status similar to that of marriage, as described in the "Uniform Marriage Act" in the 2005 version of the Colorado Revised Statutes?

Hearing May 17, 2006:

Single subject approved; staff draft amended; titles set.

Hearing adjourned 3:14 p.m.

Hearing May 25, 2006:

Motion for Rehearing denied.

Hearing adjourned 1:10 p.m.

¹ Unofficially captioned "Prohibition on Legal Status Similar to Marriage" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.