

<p>SUPREME COURT, STATE OF COLORADO          Court Address: 2 East 14th Avenue          Denver, Colorado 80203</p>	<div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>FILED IN THE              SUPREME COURT</p> <div style="border: 1px solid black; padding: 5px; margin: 5px 0;"> <p><b>AUG 08 2007</b></p> </div> <p>OF THE STATE OF COLORADO              SUSAN J. FESTAG, CLERK</p> </div>
<p>ORIGINAL PROCEEDING PURSUANT TO          § 1-40-107(2), C.R.S. (2006)          Appeal from the Ballot Title Setting Board</p>	
<p><b>Petitioners:</b> ELIZABETH ANNISON, ELLEN          BRILLIANT, TRUDY B. BROWN, VICKI J.          COWART, CATHRYN L. HAZOURI, JACINTA          MONTOYA, and TONI PANETTA, Objectors</p> <p><b>Respondents:</b> KRISTINE BURTON and MARK          MEUSER, Proponents</p> <p>and</p>	
<p><b>Title Board:</b> WILLIAM A. HOBBS, DANIEL L.          CARTIN, and DANIEL DOMENICO</p>	<p>▲ COURT USE ONLY ▲</p>
<p>Attorneys for Petitioners:          Edward T. Ramey, #6748          Kara Veitch, #32227          Isaacson Rosenbaum P.C.          633 17th Street, Suite 2200          Denver, Colorado 80202          Phone Number: (303) 292-5656          Fax Number: (303) 292-3152          E-mail: eramey@ir-law.com; kveitch@ir-law.com</p>	<p>Case No.          07SA245</p>
<p><b>PETITION FOR REVIEW OF FINAL ACTION OF          BALLOT TITLE SETTING BOARD CONCERNING          PROPOSED INITIATIVE 2007-2008 #36 ("DEFINITION OF A PERSON")</b></p>	

Elizabeth Annison, Ellen Brilliant, Trudy B. Brown, Vicki J. Cowart,  
 Cathryn L. Hazouri, Jacinta Montoya, and Toni Panetta ("Petitioners"), being

registered electors of the State of Colorado, through their undersigned counsel, respectfully petition this Court, pursuant to C.R.S. § 1-40-107(2), 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 2007-2008 #36 ("Definition of a Person").

### **I. ACTIONS OF THE BALLOT TITLE SETTING BOARD**

On July 18, 2007, the Title Board held its initial public meeting and set titles for proposed 2007-2008 Initiative #36. A week later, on July 25, 2007, Petitioners filed a Motion for Rehearing pursuant to C.R.S. § 1-40-107(1). The Motion for Rehearing was heard and denied at the next meeting of the Title Board on August 1, 2007. Petitioners hereby seek review of the final action of the Title Board regarding proposed Initiative 2007-2008 #36 pursuant to C.R.S. § 1-40-107(2).

### **II. ISSUES PRESENTED**

1. Does proposed Initiative 2007-2008 #36 violate the single subject requirement of Colo. Const. art. V, § 1(5.5) and C.R.S. § 1-40-106.5 by adding a definition to three different sections of Article II of the Colorado Constitution?

2. Does the proposed Initiative 2007-2008 #36 violate the single subject requirement of Colo. Const. art. V, § 1(5.5) and C.R.S. § 1-40-106.5 by not

allowing a voter to consider the merits of changing the definition of "person" in three different sections of Article II of the Colorado Constitution?

3. Does the proposed Initiative 2007-2008 #36 have a hidden purpose unrelated to its central theme because it does not disclose the Proponents' stated purpose of stopping abortions?

4. Is the proposed Initiative 2007-2008 #36 misleading in contravention of C.R.S. § 1-40-106 because it does not disclose the Proponents' stated purpose of stopping abortions?

### **III. SUPPORTING DOCUMENTATION**

Pursuant to C.R.S. § 1-40-107(2), 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 that this Court reverse the actions of the Ballot Title Setting Board with directions to decline to set a title and return the proposed Initiative 2007-2008 #36 to the Proponents.

Respectfully submitted this 8th day of August, 2007.

ISAACSON ROSENBAUM P.C.

By: Kara Veitch  
Kara Veitch, #32227  
Edward T. Ramey, #6748  
633 17th Street, Suite 2200  
Denver, Colorado 80202

ATTORNEYS FOR PETITIONERS

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 8th day of August, 2007, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2007-2008 #36 ("DEFINITION OF A PERSON")** was placed in the United States mail, postage prepaid, to the following:

Kristine Burton  
P.O. Box 298  
Peyton, Colorado 80831  
*Petitioner*

Mark Meuser  
P.O. Box 298  
Peyton, Colorado 80831  
*Petitioner*

Jayne Wills  
Jayne Wills



# STATE OF COLORADO

DEPARTMENT OF  
STATE

## CERTIFICATE

I, **MIKE COFFMAN**, 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 "2007-2008 #36".

.....

..... **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 3<sup>rd</sup> day of August, 2007.

SECRETARY OF STATE

*Final  
#36*

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

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

**Section 31. Person defined.** AS USED IN SECTIONS 3, 6, AND 25 OF ARTICLE II OF THE STATE CONSTITUTION, THE TERMS "PERSON" OR "PERSONS" SHALL INCLUDE ANY HUMAN BEING FROM THE MOMENT OF FERTILIZATION.

**PROPONENTS:**

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**RECEIVED**

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BALLOT TITLE BOARD

ELECTIONS / LICENSING  
SECRETARY OF STATE

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MOTION FOR REHEARING

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IN RE PROPOSED INITIATIVE FOR 2007-2008 # 36 ("DEFINITION OF A PERSON")

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Elizabeth Annison, Ellen Brilliant, Trudy B. Brown, Vicki J. Cowart, Cathryn L. Hazouri, Jacinta Montoya, and Toni Panetta ("Petitioners") being registered electors of the State of Colorado, respectfully submit the following Motion for Rehearing, pursuant to C.R.S. § 1-40-107(1), concerning the actions of the Title Board at the hearing on July 18, 2007, regarding Proposed Initiative for 2007-2008 # 36 ("Definition of a Person"). Petitioners respectfully submit that the proposed initiative violates the single subject requirement of Colo. Const. art. V, § 1(5.5) and C.R.S. § 1-40-106.5, and that the Board does not, therefore, have jurisdiction to set a title. Petitioners also respectfully submit that the title, ballot title and submission clause established by the Title Board are unfair and do not fairly express the true meaning and intent of the proposed constitutional amendment as required by C.R.S. § 1-40-106. In support of this Motion, Petitioners submit the following specific objections:

### **Violation of Single Subject Requirement**

1. The initiative expressly addresses three separate subjects by adding a definition to three different sections of Article II of the Colorado Constitution: Section 3 Inalienable Rights, Section 6 Equality of Justice; and Section 25 Due Process of Law. These sections have no necessary or proper connection as required by C.R.S. § 1-40-106.5(e). As evidence thereof, each right is contained in a separate section of the Article II.
2. Moreover, the proposed initiative does not allow a voter to consider the merits of changing the definition of "person" in each of the sections. Proposed initiatives are required to

have a single subject to prohibit "enlisting in support of the measure the advocates of each measure, and thus securing the enactment of measures that could not be carried upon their own merits." C.R.S. § 1-40-106.5(e)(I). The proposed initiative does not allow each separate change in the Constitution to be considered on its own merits. For example, a voter could desire for the State of Colorado to make a policy statement and recognize that human beings from the moment of fertilization have inalienable rights. But the same voter might not want state funds used to appoint counsel to human beings from the moment of fertilization or grant them the right to bring a lawsuit. Joining these sections also has the precluded effect of "attracting support from various factions which may have different or even conflicting interests." *See In re Proposed Initiative "Public Rights in Waters II"*, 898 P.2d 1076, 1079 (Colo. 1995).

3. The proposed initiative hides the Proponents' stated purpose. At the hearing on July 18, 2007, Proponent Mark Meuser simultaneously stated that the purpose was to establish "personhood" in the unborn and to stop abortions. The proposed initiative says nothing of abortions and thus its hidden purpose violates Colorado law. *In re Proposed Initiative for 2005-2006 # 55*, 138 P.3d 273, 277-78 (Colo. 2006).

#### **Title is Unfair and Misleading**

1. The title is misleading because it does not disclose a significant purpose of the proposed initiative. At the Title Board Hearing on July 18, 2007, Proponent Mark Meuser stated that the purpose of the proposed initiative was to establish "personhood" in the unborn and also said that the purpose was to make abortion illegal. The title says nothing of abortion. This is misleading in violation of Colorado law. *See In re Proposed Initiative for 1999-2000 #258(A)*, 4 P.3d 1094, 1099 (Colo. 2000).



Respectfully submitted this 25th day of July, 2007.

ISAACSON ROSENBAUM P.C.

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**Ballot Title Setting Board**

**Proposed Initiative 2007-2008 #36<sup>1</sup>**

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

An amendment to the Colorado constitution defining the term "person" to include any human being from the moment of fertilization as "person" is used in those provisions of the Colorado constitution relating to inalienable rights, equality of justice, and due process of law.

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 defining the term "person" to include any human being from the moment of fertilization as "person" is used in those provisions of the Colorado constitution relating to inalienable rights, equality of justice, and due process of law?

*Hearing July 18, 2007:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 3:30 p.m.*

*Hearing August 1, 2007:*

*Motion for Rehearing denied.*

*Hearing adjourned 2:56 p.m.*

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<sup>1</sup> Unofficially captioned "Definition of Person" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.