

SUPREME COURT, STATE OF COLORADO

2 E. 14th Avenue
Denver, CO 80203

ORIGINAL PROCEEDINGS PURSUANT TO
§ 1-40-107(2), C.R.S. (2008)
Appeal from Ballot Title Setting Board

PAGE PENK

Petitioner,

v.

MIKE COFFMAN, SECRETARY OF STATE;
DAN DOMENICO, WILLIAM HOBBS,
DAN CARTIN, TITLE BOARD,

Respondents

PAGE PENK

pro se

1304 S. Parker Rd. PH 17
Denver, CO
80231
303.283.7913

FILED IN THE
SUPREME COURT

MAY 29 2008

OF THE STATE OF COLORADO
SUSAN J. FESTAG, CLERK

▲ COURT USE ONLY ▲

Case No. 08 SA

08SA184

**EMERGENCY COMPLAINT
and
RULE 2 EMERGENCY MOTION FOR ORAL ARGUMENTS IN
OTERO COUNTY, COLORADO**

STATEMENT OF THE FACTS

- I. "We can see that merit selection...is able to adapt to changing times."
Colorado Supreme Court Chief Justice Mary Mullarky

- II. The Supreme Allied Commander at Normandy and thirty-fourth president of the United States of America's final instruction to the nation, televised January 17th, 1961:



"Now this conjunction of an immense military establishment and a large arms industry is new in the American experience. **The total influence -- economic, political, even spiritual -- is felt in every city, every Statehouse, every office of the Federal government.** We recognize the imperative need for this development. Yet, we must not fail to comprehend its grave implications. Our toil, resources, and livelihood are all involved. So is the very structure of our society.

In the councils of government, we must guard against the acquisition of unwarranted influence, whether sought or unsought, by the military-industrial complex."¹

- III. Justice Oliver Wendell Holmes' Jr., the man who was wounded at Ball's Bluff, Antietam and Fredericksburg and rode straight into the dead angel of the Union line at Spotsylvania Courthouse so as to help crush the Rebellion, said this in his dissenting opinion in *Abrams v. U.S.*, 250 U.S. 616 (1919),

*"But when men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct that the ultimate good desired is better reached by **free trade in ideas**...that the best test of truth is the power of the thought to get itself accepted in the competition of the market, and that truth is the only ground upon which their wishes safely can be carried out. That at any rate is the theory of our Constitution."*?

¹ Eisenhower, Dwight David, President, "Televised Farewell Address to the Nation", 17 January, 1961.

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STANDING TO SUE

In truth, this case is at first glance merely about “merit selection” as it relates to the words for the Ballot Title for Proposition #97, 2008. Now I asked the Title Board real nice to put the wording of the core issue of Proposition #97 as close to the front of the Ballot Title as possible. Twice they refused as verified in attached appendix. And truthfully, I was the only citizen who gave testimony at the Title Board hearings. Not one other person rose up to speak either yea or nay on my behalf. I thought that meant that under Article II, Section 1 of the Colorado Constitution the score was:

Citizens- 1
Government- 0

and that the title would automatically be written “my way”. But it wasn’t. Apparently, my vote didn’t count. Twice.

So now my only legal recourse is to resort to the law of Colorado Revised Statute § 1-40-107(2), C.R.S. (2008), ORIGINAL PROCEEDINGS PURSUANT TO- Appeal from Ballot Title Setting Board *and* Article II Section I of the state Constitution, and come forward to this honorable Court and ask for redress of my grievance. As the proponent of Proposition #97, a citizen of the great state of Colorado as well as the United States, a human being *and* a father, I am legally entitled to seek the wisdom of this just Court in this important matter. Because should I lose this case for a good reason, a bad reason or no reason at all, the penalty is *homo sapien* extinction, sooner rather than later. Much sooner. This true story I come to warn you of.

STATEMENT OF THE ISSUES

While narrowly framed as an issue of “merit selection” of the wording of this Ballot Title, in a broader sense this case is about a Constitutional showdown between the “military-industrial complex” Ike warned us about and the law. And unfortunately, this conflict can no longer be either postponed or ignored. That’s because on the “industrial complex” side of the equation is a soulless, immortal legal business entity and Swiss corporation known as Roche AG (pronounced “roach”), Swiss Stock Exchange symbol: ROG, with \$11 billion in annual sales.

Little noticed by the press or the public, Roche AG bought a then small company in Connecticut called 454 Life Science². 454 Life Science makes a very special product called the Genome Sequencer FLX system Life Machines®, among other products. The Genome Sequencer FLX system Life Machines® according to their product catalog, “provides ultra-high throughput DNA sequencing”³. Translated into English, that means anyone with the cash can build designer life, from scratch. For a good reason. Or a bad reason. Or no reason at all.

In fact, 454 Life Science comes right out and says one can build⁴:

- Bacteria *de novo*
- Fungus *de novo*
- Virus *de novo*

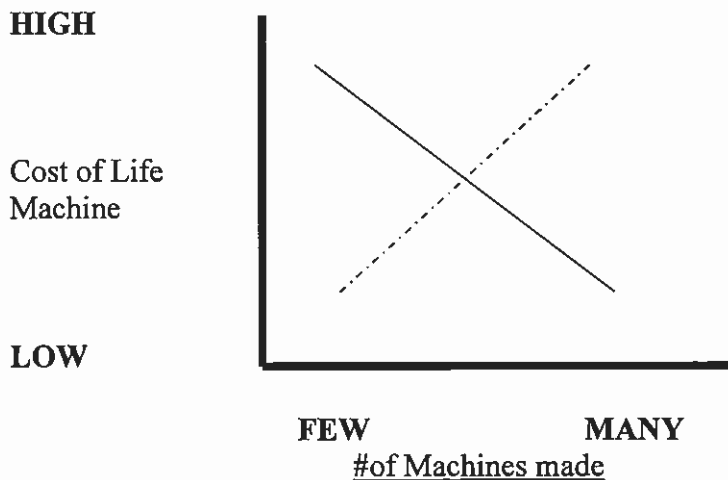
Doesn’t say what kind of virus *de novo* can be built, because that’s not their concern. But it is mine because what if someone wanted to build, say, small pox?

² <http://www.454.com/>

³ <http://www.454.com/products-and-reagents/index.asp>

⁴ <http://www.454.com/news-events/publications.asp>

“As the technology spreads in availability, the possibility that someone, somewhere, will synthesize something like smallpox will grow ever greater. The genome sequences of pathogens...are piling up on the Internet.”⁵ The U.S. Health and Human Services Department even put the genetic code for Avian Flu, the “1918 influenza virus that killed 50 million people worldwide”, on the Web.⁶ It’s so easy, “Students are inserting genes into bacteria as part of 9th grade and 10th grade curriculum.”⁷ It gets worse, much worse. First, since 2005, one can buy a “bacterial genome for the price of a car.”⁸ According to this story, a company in Seattle called Blue Heron that will do it for you and ship it overnight. The graph looks like this:



The reason this is of concern of course is that eventually, someone shall build smallpox and release it, as soon as Life Machines flood the market, the production of which Roche AG is working 24/7 and with vast resources to achieve.

⁵ Morton, Oliver. “Biology’s New Forbidden Fruit.” *New York Times*, 11 February, 2005: A23.
⁶ Kursweil, Ray and Joy, Bill. “Recipe for Destruction.” *New York Times*, 17 October 2005: A 23.
⁷ Lemley, Brad. (No title) *Discover*. October 2005: 49.
⁸ Morton, Oliver. “Life, reinvented.” *Wired*, January 2005: 173.

Now lets take a moment and review the dynamics of the competition here. On the one hand is me, an unemployed ex-janitor with bi-polar illness and \$21 to my name and Roche AG with \$11 billion in worldwide annual sales according to their Annual Report. Seeing as I sleep about 8 hours a day and have no money left while in turn, Roche AG never sleeps and is in fact, legally immortal while having almost near infinite resources to manufacture as many Life Machines as humanly possible, who is in the stronger position to have their way, me or the Roach?

The real problem is that Roche isn't breaking any laws in what their doing. Their science has moved out so far ahead of the law, public knowledge and consent that they literally have no restraints on them be they legal, "economic, political or even spiritual" in nature. Because should one country rise up and try to ban the Life Machines, Roche will cleverly and quietly transfer production across national boundaries to where it is legal, like maybe to our good friend in the War on Terror and nuclear arms bizarre for the world, Pakistan, which "In 1992...established a Biomedical and Genetic Engineering Division".⁹ Great.

The point here is that this Court can literally do nothing, directly, about stopping the Roach, in part because the Life Machines can also produce beneficial medicines. Capitalism not only allows the rise of the Life Machines, rising sales volume is demanded in capitalism, even for products that turn out to be lethal to everyone. So if there can be no "merit selection" for Roche, what about the Ballot Title wording?

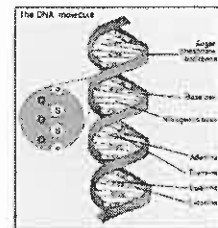
⁹ Langewiesche, William. "The Wrath of Khan, How A.Q. Khan made Pakistan a nuclear power- and showed that the spread of atomic weapons can't be stopped." The Atlantic Monthly. November 2005: 82.

There was this one time I read this book entitled “How to Argue and Win Every Time” by an ol’ country lawyer by the name of Gerry Spence. And in talking about apparently hopeless cases where prejudice blinds the courts to justice, his only suggestion was to “tack” into the problem, like in sailing, to approach from a gentle, less steep angle. Perhaps it could even be considered as being graceful about an issue, so as to save face for all parties while finding a way of moving forward, to the better days I believe still await America and the kind and wise and tolerant people I know we dream ourselves to be at night. And perhaps that means gracefully moving to stop Mike Coffman and the Title Board Gang, as a first step to gracefully confronting the largest and most deadly issues our civilization has ever faced: the apparently unstoppable rise of machines with the power to destroy ourselves not with a bang, but with a whimper.

Perhaps it might soothe the gentle reader’s brow to know that stories, good stories, the ones that move us and cause us to ponder deeper questions while still having a happy ending, these stories unfold in stages or Acts, usually three of them. This is a time-testing writing method and I see no reason not to follow such a successful script. So ACT I is an understanding of the dangerous rise of capitalism exempt from “merit selection”.

Act II

Unfortunately, the double-helix of the “military-industrial complex” is tightly woven together so that what industry produces, the military will use. In truth, there is no technology the military has not converted into engines of war. There is no reason Life Machines will be exempt.



In fact, Pakistan already started doing back in 1992, making this not science fiction, but history. And this court has no direct power to stop this in exactly the same way that this Court has no direct power to stop the expansion of Pinion Canyon in southern Colorado. Having attended a meeting of the Army's proposed expansion plans, it is clear to me that the military is going to get whatever resources they feel they need, no matter how many landowners they push out in this state, no matter who gets hurt. And like Marine Corp Reserve Major Mike Coffman and his former boss then Chairman of the Joint Chief's of Staff Marine Corp General Peter Pace, who as Chairman wrote on May 21st, 2007 to federal Judge Reggie Walters, and asked for leniency for a felon, Major Mike appears to be going to get his way on the improper Ballot Title for Proposition #97.

Now without the help of this Court, there will be no discussion about that, just like there has been no discussion about Pinion Canyon. In fact, the strength of the "military industrial complex" is so great that we aren't even going to have a discussion about *any* weapon system the U.S. owns, starting with bullet size. Apparently, the Army has decided, without any type of "merit selection" or "free market in ideas" that the standard M855 M-16 rifle round just isn't cutting it in combat anymore. " 'Studies are being conducted to see if [the M855] can be made more lethal without violating the Hague Convention' ...[the Army said]...The arguments over larger calibers...are normal in military circles where emotions over guns and bullets can run high. 'One of the things I've discovered in guns is that damned near everyone is an expert,' he says. 'And they all have opinions.'"¹⁰ That's funny, no one asked me my opinion about replacement rounds.

¹⁰ "US uses bullets ill-suited for new ways of war." Lardner, Richard, Associated Press, 26 May, 2008.

Now the current Chairman of the Joint Chief's of Staff, a one Admiral Mike Mullen, apparently had time to go to Fort Sill in Oklahoma to ask for input from his troops about our current "Long War on Terror."¹¹ That's a great thing he did, really. Because I just finished this class in statistics for my Master's Degree in City Planning at C.U. Denver and according to the official transcript I got directly from the Registrar's Office May 28th, 2008, I got a "B" in the class. And one of the first things I learned was that size matters, sample size that is.

The figure "N" represents how many samples one collects in trying to determine what people think and believe about a subject. And unfortunately for Adm. Mullen, his sample size is at least "two-sizes too small", perhaps like his heart when it comes to collecting samples from those outside his group. There is no law that requires him to ask me and the rest of the citizens what *we* think about his plans. Just as there is no law requiring Roach to get my input in their spreading of the Life Machines. The only law that can even ask the military, in the person of Major Mike, *anything*, is the law allowing review of his conduct of the Title Board in setting titles.

Adm. Mullen is a fine political officer, in the Russian commissar sense of the word because of the many hats he wears, one is that of political indoctrinator: "Military Chief [Mullen] Warns Troops About Politics."¹² The article basically say he told the troops to stay out of politics this election year. Good. What about him staying out?

¹¹ "Feedback for the Chairman of Joint Chiefs." Shanker, Tom, New York Times, 24 October, 2007: web.

¹² "Military Chief Warns Troops About Politics" Shanker, Tom, New York Times, 26 May, 2008: web.

“Joint Chiefs Chairman Looks Beyond Current Wars

WASHINGTON, Oct. 21 — The new chairman of the Joint Chiefs of Staff plans to press Congress and the public to sustain the current high levels of military spending — even after the Iraq war — arguing for money to repair and replace worn-out weapons and to restore American ground forces he described as ‘breakable,’ though not yet broken.”¹³

Again, just like with 454 Life Science and the Army at Pinion Canyon and the non-debate over bullet size, *I* have no say about the future funding of the military or their weapon systems because Congress isn’t going to invite me or any other taxpayer who might oppose their plans, to speak at any hearings, ever. But Commissar Mullen, he actually gets *paid to lobby Congress*, for the Pentagon, with **my money** to foster evil. And there is nothing I or anyone else can do about that. The only action apparently open to anyone is to move against Major Mike and the Title Board Gang. Why?

Statement of the Case

The definition of “fetish” according the Webster’s Third International Dictionary, (unabridged) is:

“Any object, animate or inanimate, natural or artificial, regarded with a feeling of awe, as having mysterious powers in it or as being the representative or habitation of a deity. Among savages, it is usual for each tribe to have a fetish in common.”

¹³ “Joint Chiefs Chairman Looks Beyond Current Wars.” Shanker, Tom, New York Times, 22 Oct, 2007: web.



The American military has a “fetish” about all lethal weapons most especially guns in particular. But the biggest “fetish” is this one, the atom bomb:



This despite this pronouncement by the Commander-in-Chief at the Air Force Academy saying this:

“ ‘We can work toward this noble goal: Defeating the enemies of freedom by sparing innocent people,’ [President Bush] said.”¹⁵

¹⁴ Beneath the Planet of the Apes. Prod. Arthur P. Jacobs. Dir. Ted Post. Perf. James Franciscus, Kim Hunter. Videocassette. 20th Century Fox, 1970.

¹⁵ “Bush praises courage, leadership of Academy grads.” McGee, Tom, Denver Post, 28 May, 2008.

Really? We can spare the innocent? Not with flying ovens which are indiscriminate. But if we updated our arsenal, through either “merit selection” or a “free-market in ideas”, we might spare the innocent.



Nonlethal Weapons

Beam technology emerges as humane alternative for war

By Michael P. Reapan
SOCIATED PRESS

A few months from now, Peter Anthony Schlessinger hopes to zap a laser beam at a couple of chickens or other animals in a cage a few dozen birds away.

If all goes as planned, the chickens will be frozen in midcluck, their leg and wing muscles paralyzed by an electrical charge created by the beam, even as their heart and lungs continue to function normally.

Among those most interested in the demonstration's outcome will be officials at the Pentagon, who helped fund Schlessinger's work and are looking at this type of device to do a lot more than just zap the cluck of a chicken.

Devices like these, known as directed-energy weapons, could play a large role in future warfare.

"When you can do things at the speed of light, all sorts of new capabilities are there," said Dolores Bixler, a former undersecretary of defense for science and technology and a major advocate of directed-energy weapons.

Directed energy could bring numerous advantages to the battle-

field against humans is already creating controversy, fueled by deaths allegedly caused by Tasers and the alleged abuse of Iraqi prisoners — which put the military's respect for human rights under a microscope.

Some experts believe the use of directed energy will be hamstrung by international law and treaties.

"Although it seems like it would be more desirable to disable rather than to kill them, the problem is there are all sorts of treaties in place that limit how you can disable non-combatants," said Loren Thompson of the Lexington Institute, a defense think tank. "It's kind of perverse, but sometimes the backlog of old laws can get in the way of being humane."

Military officials believe the intended uses of the Active Denial System do not violate any international laws or treaties and do not cause any permanent health problems.

"You can rest assured that with this system, when it finally is deployed, we will be very, very clear about what the intended uses are and what is clearly outside of bounds," said Matthew Corpis, Capt. Daniel McSwain, spokesman for the Joint Non-Lethal Weapons Directorate. "It's not intended to be

A new breed of weapons

Devices known as directed-energy weapons could play a role in fighting conflicts in coming years. Directed energy could bring numerous advantages to the battlefield, where U.S. troops have had to deal with hostile but unarmed crowds. Aside from temporarily paralyzing potential attackers, the weapons can disable electronics or missiles.



Antenna focuses the invisible beam

A Humvee-mounted prototype is expected to be given to all the services for evaluation by the end of the year.

Transmitter produces energy at a frequency of 95 GHz

Sends a non-lethal beam of energy to reset people without injury



The beam
Traveling at the speed of light, penetrates the skin to 1/64 of an inch, causing a burning sensation.

A 2-second burst can heat the skin to 130°F



Range
Beam: 700 yards
Small-arms fire: about 1,000 yards

Close Quarters Shock Rifle

Delivers a shock, like a long-range Taser stun gun. While Tasers deliver charges over a wire anchored by darts,



... the shock rifle sends an electrical charge along ionized gas, or plasma.

The 9-foot range rifle can also be used to disable electronics in missiles, roadside bombs or vehicles.

Airborne Laser

Under development with Boeing, the laser is designed to locate and shoot down missiles in their boost phase.



Active laser rangefinder

Non-rotating turret

High-energy laser

Beam control system

Beam

Modified 747

Boeing's Class II Defense Research Laboratory Corp., U.S. Air Force's Strategic Air Command Research Systems

If asked, and I haven't been, I would say "Let's try non-lethal weapons." Why? Because the men who control the ovens, many of which are hidden in Colorado, have no idea where said ovens are going to land.¹⁶ Since they have never test-flown said missiles through the magnetic fields of the North Pole, one might land in, say, Uzbekistan, my new daughter's homeland and the place where she's going in about a week.



Now if my daughter ends up looking like this, for a good reason, a bad reason, or no reason at all, I won't be coming back to any American court for any reason. Period.

¹⁶ For a full explanation of the insurmountable obstacles in predicting ICBM accuracy on operational trajectories, see Thomas H. Etzold, Defense or Delusion: America's Military in the 1980's, New York, Harper & Row, 1982.

Statement of the Case

“And Jesus said ‘For as you do unto the least of the children, you do unto me.’”¹⁷



My Russian wife’s Sunni Muslim daughter and child of G-d, unworthy of being moved to a lowered state of physical grace by the hand of any man, now that we have better alternatives. Period

Argument

All children, regardless of their physical location, are Children of G-d.

¹⁷ Book of Matthew, 25:40.

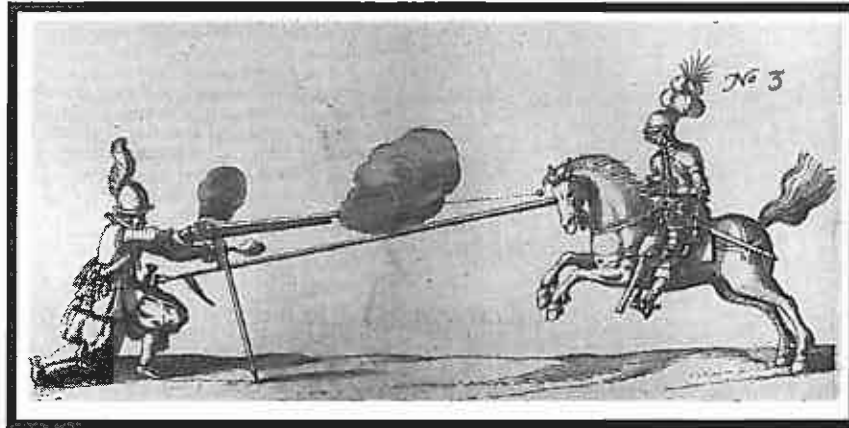
Claim

I claim Major Mike and the Title Board Gang were wrong in setting the title for Proposition #97 the way they did. This Court has already ruled in this matter *In re Title, Ballot Title and Submission Clause and Summary for 1999-2000 No. 215*, 3 P.3d 11, 14 (Colo. 2000) that the courts will reject language “only if it is misleading, inaccurate or fails to reflect the central features of the proposed measure.” Surely placing the “central features” of the proposal at the back of the grammatical bus, so to speak, is “misleading”. In fact, Mr. Knaizer already said on page 3 in his response in 07 SA 288 that it is “possible” for the Title Board to write titles in different ways. Imagine that.

Prayer for Relief

I humbly ask this Court to take action in moving against not 454 Life Science, not against the military in Pinion Canyon nor to become involved in the debate over bullet size or the use of America nuclear weapons on the word of just one man, but to simply move symbolically against Mike Coffman and everything he stand for. This can be done most simply not by automatically returning this case to the Title Board and not by delaying a decision or punting the issue to a higher court, but rather by having oral arguments in this matter in Otero County, Colorado and getting the input of the good folks in that part of the state as to what they think about the wording of Proposition #97. They'll tell this Court straight, and in no uncertain words what they think about the military. My new wife will be here next week and I want to make her and her daughter proud of me. I'd be “bona fide” again in their beautiful eyes if I got oral arguments there.

Act III

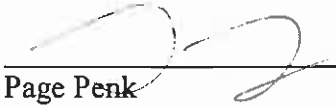


“The belief that nuclear-armed powers can fight a conventional [or bio-] war is a severe case of cultural lag, but the sort of thing that is quite common. An illustration from a seventeenth century manuscript purports to show how a mounted knight could still pick off an arquebusier with his lance before the latter’s bullet could plug his horse.”¹⁸

It is up to this Court to help move our nation forward in terms of updating our defense arsenal to more humane ways of ensuring the peace. But the cultural lag of the men is going to prevent that from happening. Eventually, with the Life Machines, the military will not only be able to produce virus *de novo* , they’ll also be able to make new soldiers from test-tubes that were not fertilized and hence have no “personhood” to give them rights, and soon someone will start cloning women. Not the whole women, just the best parts of a woman, if you know what I mean. And it’s not funny because I predict the next war is the War On Women, thanks to the men and 454 Life Science. The way to stop this is to start by discussing the wording of Proposition #97 in Otero County and asking the women what they think. So because size does matter, the sample size of those asked about military conduct should be as large as possible. It’s our best chance of survival, me saving my marriage and the U.S. courts “saving face” for America, before someone throws *their* law in our face.

¹⁸ Dyer, Gwynne, *War*, Crown Publishers, New York 1985: 198.

Respectfully submitted May 29th, 2008.


Page Penk
father/citizen

Citations

Colorado Revised Statute

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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 #97".

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 23rd day of May, 2008.

SECRETARY OF STATE

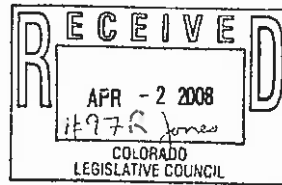
*Proposed Initiative #197
NO changes Page Penk*

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

Shall there be a sex strike by the women only, on January 1st, 2009, for one day in length, in support of the wife's and parents of U.S. combat troops receiving pay for support services rendered to the military, through an amendment to the Colorado Constitution?

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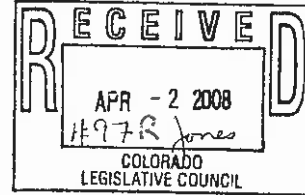
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I want a re-hearing on Prop #197 re the Title Banned

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May 7, 2008

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APR 16 2008
ELECTIONS
SECRETARY OF STATE
B:Ban

I want a title board hearing as soon as possible
on Prop. 97. No changes to language

April 16th, 2008

Page 2 of 2



Representative

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APR 16 2008

ELECTIONS
SECRETARY OF STATE

9:45 AM
[Signature]
WR

Ballot Title Setting Board

Proposed Initiative 2007-2008 #97¹

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

An amendment to the Colorado constitution concerning a sex strike by women only in support of United States combat troops.

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 concerning a sex strike by women only in support of United States combat troops?

Hearing May 7, 2008:

Single subject approved; staff draft adopted; titles set.

Hearing adjourned 8:14 a.m.

Hearing May 21, 2008:

Motion for Rehearing denied.

Hearing adjourned 7:39 a.m.

¹ Unofficially captioned "Strike in Support of Combat Troops" by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board