

SUPREME COURT OF COLORADO  
2 East 14<sup>th</sup> Avenue  
Denver, Colorado 80203

Original Proceeding  
Pursuant to Colo. Rev. Stat. §1-40-107(2)  
Appeal from the Ballot Title Board

In the Matter of the Title, Ballot Title, and  
Submission Clause for Proposed Initiative 2013-  
2014, #90

**Petitioners:** CAITLIN ANNE LEAHY and  
GREGORY M. DIAMOND

v.

**Respondents:** MIZRAIM CORDERO and  
SCOTT PRESTIDGE

**and**

**Title Board:** SUZANNE STAIERT; DANIEL  
DOMENICO; and JASON GELENDER

▲ COURT USE ONLY ▲

Attorneys for Petitioners:

Martha M. Tierney, #27521  
Edward T. Ramey, #6748  
Heizer Paul LLP  
2401 15<sup>th</sup> Street, Suite 300  
Denver, CO 80202  
Telephone: 303-595-4747  
Facsimile: 303-595-4750  
Email: [mtierney@hpfirm.com](mailto:mtierney@hpfirm.com)  
[eramey@hpfirm.com](mailto:eramey@hpfirm.com)

Supreme Court Case No.  
14SA121

**PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE  
SETTING BOARD CONCERNING  
PROPOSED INITIATIVE 2013-2014 #90**

Caitlin Anne Leahy and Gregory M. Diamond (“Petitioner-Proponents”), registered electors of the State of Colorado, through their undersigned counsel, respectfully petition this Court pursuant to Colo. Rev. Stat. § 1-40-107(2), to review the actions of the Ballot Title Setting Board (“Title Board”) with respect to the setting of the title, ballot title, and submission clause for proposed Initiative 2013-2014 #90.

## **STATEMENT OF THE CASE**

### **A. Procedural History of Proposed Initiative #90**

Caitlin Anne Leahy and Gregory M. Diamond are the proponents of Initiative 2013-2014 #90 (the “Proposed Initiative”). The Offices of Legislative Council and Legislative Legal Services held a review and comment hearing on the Proposed Initiative. Thereafter, the Petitioner-Proponents submitted a final version of the Proposed Initiative to the Secretary of State.

The Title Board held a hearing on April 2, 2014, and determined the Proposed Initiative contained a single subject and set a title. On April 9, 2014, Respondents Mizraim Cordero and Scott Prestidge filed a Motion for Rehearing alleging that the Proposed Initiative violated the single subject requirement and that its title was unfair, misleading and contained an impermissible catch-phrase. The Title Board held a rehearing on April 16, 2014, at which time it granted the

Motion for Rehearing to the extent that it amended the title, and denied it as to all other respects.

## **B. Jurisdiction**

Petitioner-Proponents are entitled to a review before the Colorado Supreme Court pursuant to Colo. Rev. Stat § 1-40-107(2). After the initial title setting hearing for Initiative #90, the title contained the words “including hydraulic fracturing.” After Respondents filed a motion for rehearing on April 9, 2014, Petitioner-Proponents participated in the rehearing on April 16, 2014, and over their objections, the Title Board removed the words “including hydraulic fracturing” from the title. *See* C.R.S. §1-40-107(1). Petitioner-Proponents timely filed this Petition for Review within seven days from the date of the hearing on the Motion for Rehearing. *Id.* §1-40-107(2).

As required by Colo. Rev. Stat. §1-40-107(2), attached to this Petition for Review are certified copies of: (1) the initiative filed by the Petitioner-Proponents; (2) the title and the submission clause set by the Title Board; (3) the Motion for Rehearing filed by the Respondents; and (4) the ruling on the Motion for Rehearing. Petitioner-Proponents are not satisfied with the Title Board’s ruling on the Motion for Rehearing and the resulting title. Consequently, this matter is properly before the Colorado Supreme Court.

## **GROUNDNS FOR APPEAL**

In violation of Colo. Rev. Stat. § 1-40-106(3)(b), the Title Board set a title that is misleading, does not fairly and correctly express the true meaning of the initiative, does not unambiguously state the principles of the provisions to be added to the Constitution, and will lead to voter confusion. The following is an advisory statement of the issue to be addressed in Petitioner-Proponents' brief:

Whether the ballot title is misleading when it omits from the title the words "including hydraulic fracturing," thereby failing to advise the electorate of the central purpose of the measure as expressed in the measure itself.

## **PRAYER FOR RELIEF**

Petitioners-Proponents respectfully request that, after consideration of the parties' briefs, this Court determine that the title set for the Proposed Initiative be corrected to reinsert the words "including hydraulic fracturing" to ensure the title accurately and fairly represents the text of the initiative.

Respectfully submitted this 23rd day of April, 2014.

s/Martha M. Tierney

Martha M. Tierney, #27521

Edward T. Ramey, #6748

Heizer Paul LLP

2401 15<sup>th</sup> Street, Suite 300

Denver, CO 80202

Telephone: 303-376-3712

Facsimile: 303-595-4750

Email: [mtierney@hpfirm.com](mailto:mtierney@hpfirm.com)

[eramey@hpfirm.com](mailto:eramey@hpfirm.com)

**ATTORNEYS FOR PETITIONER-  
PROponents**

**CERTIFICATE OF SERVICE**

I hereby certify that on the 23<sup>rd</sup> day of April, 2014, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2013-2014 #90** was filed and served via the Integrated Colorado Courts E-filing System, to the following:

Chantell Taylor  
Elizabeth H. Titus  
Hogan Lovells US LLP  
1200 Seventeenth Street, Suite 1500  
Denver, CO 80202  
[chantell.taylor@hoganlovells.com](mailto:chantell.taylor@hoganlovells.com)  
[elizabeth.titus@hoganlovells.com](mailto:elizabeth.titus@hoganlovells.com)  
*Attorneys for Mizraim Cordero and Scott Prestidge*

Maurice G. Knaizer, Esq.  
Assistant Attorney General  
1300 Broadway, 6<sup>th</sup> Floor  
Denver, Colorado 80203  
maurice.knaizer@state.co.us  
*Attorneys for Title Board*

s/Amy Knight  
\_\_\_\_\_  
Amy Knight

Colorado Supreme Court 2 East 14th Avenue Denver, CO 80203	DATE FILED: April 24, 2014 2:28 PM
Original Proceeding Pursuant to § 1-40-107(2), C.R.S. (2013) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2031-2014 #90  <b>Petitioners/Cross-Respondents:</b>  Mizraim S Cordero and Scott Prestidge,  <b>v.</b>  <b>Respondents/Cross-Petitioners:</b>  Caitlin Leahy and Gregory Diamond,  <b>and</b>  <b>Title Boards:</b>  Suzanne Staiert, Daniel Domenico, and Jason Gelender.	Supreme Court Case No: 2014SA121
ORDER OF COURT	

Upon consideration of the Petition for Review of Ballot Title Setting Board concerning Proposed Initiative 2013-2014 #90 filed in the above cause, and now being sufficiently advised in the premises,

IT IS ORDERED that the parties file simultaneous Opening Briefs on or before May 13, 2014. The parties may file simultaneous Answer Briefs within twenty days after service of the Opening Briefs.

IT IS FURTHER ORDERED that all briefs shall be filed and served upon the opposing parties through ICCES, by hand delivery, or through an overnight delivery service.

BY THE COURT, APRIL 24, 2014.