DATE FILED: March 18, 2020 5:08 PM

SUPREME COURT OF COLORADO 2 East 14th Avenue Denver, Colorado 80203	
Original Proceeding Pursuant to Colo. Rev. Stat. §1-40-107(2) Appeal from the Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2019-2020, #178 **Petitioner:** JOHN JUSTMAN **v.** **Respondents/Proponents:** ANNE LEE FOSTER and SUZANNE SPIEGEL **and** **Ballot Title Board:** THERESA CONLY, DAVID POWELL, and JASON GELENDER	**▲ COURT USE ONLY ▲** Supreme Court Case No. 20SA67
Attorneys for Petitioner: Suzanne Staiert, Reg. No. 23411 MAVEN LAW GROUP 1800 Glenarm Place, Suite 950 Denver, CO 80202 Phone: (303) 263-0844 Email: sstaiert@mavenlawgroup.com	

PETITIONER'S OPENING BRIEF

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief complies with all the 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).

Choose one:
_X_ It contains 4,261words.

___ It does not exceed 30 pages.

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

For the party raising the issue:

_X_ It contains under a separate heading (1) a concise statement of the applicable standard of appellate review with citation to authority; and (2) 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.

I acknowledge that my brief may be stricken if it fails to comply with any of the requirements of C.A.R. 28 and C.A.R. 32.

/s/ Suzanne Staiert
Suzanne Staiert
Attorney for the Petitioner

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Petitioner, John Justman, registered elector of the State of Colorado, through his undersigned counsel, submits his Opening Brief in this original proceeding challenging the actions of the Title Board on Proposed Initiative 2019-2020 No. 178 (unofficially captioned as "Oil and Gas Operator Financial Assurance").

STATEMENT OF THE ISSUES PRESENTED

1. Whether the Title Board properly considered the Petitioner's Motion to Disqualify.
2. Whether the Title Board erred in ruling that the measure contains a single subject as required by Article V, § 1(8) of the Colorado Constitution and C.R.S. §1-40-105(4).
3. Whether the measure's fiscal impact statement and abstract fail to comply with the requirements of C.R.S. § 1-40-105.5(3), and are otherwise misleading and prejudicial.
4. Whether the title is misleading and fails to advise the voters of the central purposes of the measure.

STATEMENT OF THE CASE

The Petitioner brings this original proceeding pursuant to section 1-40-107(2), C.R.S., as an appeal of the Title Board's decision to deny Petitioner's Motion for Rehearing and set title for Proposed Initiative 2019-2020 No. 178. The

Petitioner also appeals the Title Board's improper consideration of the Motion to Disqualify.

Proposed Initiative No. 178 seeks to require operators to provide a minimum financial assurance not less than $270,000 per well. Proponents Anne Lee Foster and Suzanne Spiegel filed an original draft of each measure on January 24, 2020. The Proponents filed an amended draft of the Initiative with the Title Board on January 24, 2020.

The Title Board considered the Initiative on February 5, 2020 and determined that it had jurisdiction to set title. *See* Pet. For Review, at 9. The Petitioner subsequently filed timely Motion for Rehearing ("Motion") pursuant to section 1-40-107(1)(a) and a Motion to Disqualify on February 12, 2020.

In the Motion concerning Proposed Initiative No. 178, Petitioner argued that:

1. The measure violated the single-subject requirement;
2. The measure's fiscal impact statement and abstract failed to comply with the requirements set forth in Section 1-40-105.5, C.R.S. by providing voters with no meaningful information, and is otherwise misleading and prejudicial; and
3. The measure's title is misleading.

At the February 19, 2020 Rehearing, the Secretary of State's designee and chairperson of the Title Board, first dispensed with the Motion to Disqualify filed in Proposed Initiative No. 178. Without deliberation or a vote of the Title Board, the Chairperson, who was the subject of the Motion to Disqualify, concluded the Motion had no basis in statute or rule, was "procedurally improper," and therefore "fails." Audio of the February 19, 2020 Rehearing, at 05:47. The Chairperson opined that only judicial or quasi-judicial boards are required to consider allegations of bias. *Id*. at 05:09 – 5:20 The Director of the Office of Legislative Legal Services' designee opined that because Proposed Initiative 2017-2018 No. 97 had successfully withstood challenge, the Title Board could not be biased. *Id*. at 06:04 – 06:53.[1]

Next, the Title Board received testimony and considered the Motion for Rehearing. Petitioner offered testimony from Mr. Chad Calvert, Manager,

[1] It is important to note that the proceedings involving Proposed Initiative 2017-2018 No. 97 occurred before the unprecedented changes in the regulatory landscape of oil and gas development as result of Senate Bill 2019-181. The Governor signed SB 19-181 into law on April 16, 2019. SB 19-181 "ensures that oil and gas development and operations in Colorado are regulated in a manner that protects public health, safety, welfare, the environment and wildlife resources." Changes to regulations include local government authority and siting. *See* "SB 19-181" at https://cogcc.state.co.us/sb19181.html#/overview. Central to this measure, SB 19-181 expressly directs the COGCC to address financial assurances.

Government Relations, Noble Energy. Mr. Calvert testified the average cost to close and remediate a well is approximately $90,000 to $100,000 per vertical well and an additional $20,000 per horizontal well. *Id*. at 48:23-49:05, 56:01. Petitioner's counsel explained that if this new minimum applied to all existing wells, many operators would be unable to conduct business in Colorado. *Id*. at 56:42 – 57:00. The $270,000 minimal financial assurance would require that the oil and gas industry obtain more than $16 billion in bonds and it would be impossible to get this coverage on the open market. *Id*. at 1:05:54 – 1:07:00. Mr. Calvert, Petitioner's counsel, Proponent's counsel, and the Title Board discussed the basis for the $270,000 minimal financial assurance and whether this was reflective of the stated purpose of closure and restoration. *Id*. at 51:50 – 1:03:35. Petitioner's counsel argued that as drafted, the title would mislead voters because the title is not clear if the $270,000 minimal financial assurance was for existing and new or just new wells and whether it was connected to just the closure and restoration of wells. (*Id*. at 51:20 – 52:20, 57:00 – 58:02. The Legislative Director of the Office of Legislative Legal Services' designee responded to the concern that the title was unclear if the minimum financial assurance applied to existing or just new wells. He stated, "I understand the confusion," "The Confusion is

understandable, but not a true concern," and "I don't think it is necessarily clear." *Id*. at 58:53 – 58:54, 59:47 – 59:56, and 1:03:22 – 1:03:29.

During the Rehearing, Proponents addressed the Title Board member's confusion and clarified that the financial assurances applies prospectively, to new wells only. *Id.* at 1:02:39 – 1:02:54.

However, even in light of the confusion of the title and the Title Board's need to seek clarification from Proponent's counsel as to whether the intent of the measure pertains to existing or new wells, the Title Board failed to amend the Title and denied the Motion for Rehearing. *Id*. at 1:07:58 – 1:08:19.

Petitioner subsequently filed a timely petition for review in this Court on February 26, 2020.

SUMMARY OF ARGUMENT

The Title Board's Rehearing on Proposed Initiative No. 178 must be called into question because of the Title Board's failure to properly consider the Petitioner's Motion to Disqualify. The Petitioner is legitimately entitled to a fair and unbiased decision maker, and even one biased member on the Title Board is sufficient to deprive the Petitioner of procedural due process. The General Assembly has made clear that state agencies are required by statute to ensure that

all proceedings are not substantially prejudiced and decision makers are free of conflicts of interest.

Furthermore, the Title Board should not have set title for Proposed Initiative No. 178. The measure violates the single-subject and clear title requirements, and the measure's fiscal impact statements and abstracts fail to comply with the statutory requirements in Section 1-40-105.5(3), C.R.S., by not providing any estimates of it economic effects.

More specifically, the measure violates the single-subject requirement because it contains additional subjects beyond the measure's central feature – a $270,000 minimum financial assurance on wells. *See* Proposed Initiative, §13. These additional subjects include the shuttering of new oil and gas development, and repealing portions of SB 19-181.

The measure's title is misleading in at least three areas including the purpose of the $270,000 minumum financial assurance, the manner in which oil and gas companies can satisfy the $270,000 minumum, and whether the measure is intended to require financial assurances for both existing and new wells.

Perhaps most importantly, the measure's fiscal impact statements and abstract are utterly absent of the estimates required in statute. Such omissions, which explain that the measure would significantly reduce new oil and gas

production, jobs, and Colorado's Gross Domestic Product ("GDP"), would cause the fiscal impact statements and abstracts to mislead voters. The Title Board refused to amend the abstract and fiscal impact statement.

The measure's title, fiscal impact statement, and abstract fail to inform voters of the potential impacts the proposed initiative will have on the Colorado Oil and Gas Conservation Commission's rulemaking authority under SB 19-181.

Therefore, for all the reasons stated above and explained further below, the actions of the Title Board in denying the Motion must be reversed.

STANDARD OF REVIEW

The Court has the authority to review not only the Title Board's single-subject and clear-title findings but also a measure's fiscal impact statement and abstract. *In the Matter of the Title, Ballot Title and Submission Clause for 2017-2018 No. 4*, 395 P.3d 318, 323 (Colo. 2017). When reviewing a challenge to the Title Board's decision on single subject, clear title, fiscal impact statement and abstract, this Court "employ[s] all legitimate presumptions in favor of the propriety of the Title Board's action." *In the Matter of Title, Ballot Title, and Submission Clause for 2013-2014 No. 89*, 328 P.3d 172, 176 (Colo. 2014); *In the Matter of the Title, Ballot Title and Submission Clause for 2017-2018 No. 4*, 395 P.3d at 323. Although the right of initiative is to be liberally construed, "[i]t merits emphasis

that the proponents of an initiative bear the ultimate responsibility for formulating a clear and understandable proposal for the voters to consider." *In re Title, Ballot Title, and Submission Clause for 2007-2008 No. 62*, 184 P.3d 52, 57 (Colo. 2008) (citation omitted).

Petitioner believes that this is the first time this Court has been asked to address whether Petitioner has a legitimate expectation to an impartial Title Board.[2] It is self-evident that a fair tribunal is a basic requirement of due process. *See Caperton v. Massey Coal*, 556 U.S. 868, 876 (2009) (citation omitted). Recusal is required when the probability of actual bias on the part of the decisionmaker is "too high to be constitutionally tolerable." *Id*. at 877 (citation omitted).

Petitioner is provided limited and narrowly-construed procedural opportunities for Title Board rehearing and this Court's review. *Montero v. Meyer*, 13 F.3d 1444, 1449 (10th Cir 1994). This Court presumes the validity of the Title Board's decision, *See In re Proposed Initiative Concerning Drinking Age in Colorado*, 691 P.2d 1127, 1130 (Colo. 1984).

[2] Petitioner raises the same issue in the following concurrent cases: 20SA72, 20SA71, 20SA70, 20SA69, and 20SA68.

While Petitioner's rights are narrow under the Title Board statute, Petitioner still has a legitimate expectation of fairness and impartiality. The Petitioner should be able to present his case with assurance that the arbiter is not predisposed to find against him. *McClure v. Independent School Dist. No. 16*, 228 F.3d 1205, 1215 (10th Cir. 2000) citing *Marshall v. Jerrico, Inc.,* 446 U.S. 238, 242 (1980) (citations and internal quotations omitted).

LEGAL ARGUMENT

I. THE TITLE BOARD IMPROPERLY CONSIDERED PETITIONER'S MOTION TO DISQUALIFY, CALLING INTO QUESTION THE IMPARTIALITY OF THE ENTIRETY OF THE TITLE BOARD'S REHEARING PROCEEDINGS

The Title Board failed to properly consider the Petitioner's timely Motion to Disqualify and therefore the entirety of the Title Board's Rehearing on Proposed Initiative No. 178 must be called into question. "[O]ur system of law has always endeavored to prevent even the probability of unfairness." *Withrow v. Larkin*, 421 U.S. 35, 47 (1975) (citation omitted). Fair and unbiased decision makers are required not only in the judicial context. *Id*.

The Petitioner is entitled to a fair and unbiased decision maker, and even one biased member on the Title Board is sufficient to deprive the Petitioner of procedural due process. *See Caperton,* 556 U.S.at 876; *McClure*, 228 F.3d at 1216. Colorado's General Assembly has also made clear that state agencies are required

by statute to ensure that proceedings are not substantially prejudiced and the decision maker is free of conflicts of interest. *See* C.R.S. § 24-3.7-102(d) "Best Practices for State Boards and Commissions" (requiring written policies or bylaws and annual training on identifying and managing conflicts of interest).

The Due Process Clause entitles a person to an impartial and disinterested tribunal. U.S. Const., amend. XIV, §1. This requirement of neutrality in adjudicative proceedings safeguards the two central concerns of procedural due process, the prevention of unjustified or mistaken deprivations and the promotion of participation and dialogue by affective individuals in the decision-making process. *Marshall*, 446 U.S. at 242.

Petitioner should be able to present his case with assurance that the arbiter is not predisposed to find against him. *McClure,* 228 F.3d at 1215, citing *Marshall*, 446 U.S. at 242 (citations and internal quotations omitted).

At the Rehearing, the Petitioner was prepared to offer evidence of bias but was not provided the opportunity.[3] This included the anti-oil and gas industry nature of the Chairperson's previous employment, her role as a former lobbyist, and her anti-

[3] Petitioner is also concerned that since the Rehearing, the Secretary of State's designee, the subject of the Motion to Disqualify, has attempted to hide or destroy evidence which supports the alleged bias by removing from the public view anti-oil and gas industry social media posts.

oil and gas communications during and after her previous employment. *See* Motion to Disqualify, at 1. While there is a presumption of honesty and integrity owed to the Title Board, the Petitioner must be provided with the opportunity to overcome this presumption and demonstrate that actual bias and prejudgment was present. And in this instance, the Title Board's failure to fully consider the Motion to Disqualify interferes with this legitimate expectation. Failing to fully consider the Motion sets a precedent which would foreclose on any question of bias, including whether a member of the Title Board could be a proponent of a ballot measure. It is an unconscionable conclusion which demands review. Petitioner asks that the Court remand the measure back to the Title Board for full consideration of Petitioner's Motion to Disqualify.

II. PROPOSED INITIATIVE 2019-2020 NO. 178 CONTAINS MULTIPLE SUBJECTS IN VIOLATION OF THE SINGLE-SUBJECT REQUIREMENT

Although the Proponents contend that the single subject of their measure is a minimum financial assurance of $270,000 per new oil and gas well, the measure contains multiple additional subjects. These impermissible separate subjects for Proposed Initiative No. 178 include:

a. Repeal of administrative rules in effect related to financial assurances under SB 19-181;

b. Removal of Colorado Oil and Gas Conservation Commission's authority; and

c. Ban on all oil and gas operations in Colorado.

A. The Single-Subject Requirement Protects Against Two Specific Dangers

Article V, § 1(5.5) of the Colorado Constitution requires that "[n]o measure shall be proposed by petition containing more than one subject…" No title can be set and submitted to the people for adoption or rejection at the polls if a measure contains more than one subject, and has at least two distinct and separate purposes not dependent upon or connected with each other. *People ex rel. Elder v. Sours*, 74 P. 167, 177 (1903); Colo. Const. art. V, § 1(5.5); *see also* § 1-40-106.5 (statutory single-subject requirement).

The single subject requirement guards against two dangers associated with omnibus initiatives. First, combining subjects with no necessary or proper connection for the purpose of garnering support for the initiative from various factions that may have different or even conflicting interests could lead to the enactment of measures that would fail on their own merits. *In re Title, Ballot Title and Submission Clause for Proposed Initiative 2001-02 No. 43*, 46 P.3d 438, 442 (Colo. 2002). Second, the single subject requirement helps avoid "voter surprise and fraud occasioned by the inadvertent passage of a surreptitious provision 'coiled

up in the folds' of a complex initiative." *Id. see also In re Title, Ballot Title and Submission Clause for Proposed Initiative for 2011-12 No. 3*, 274 P.3d 562, 566 (Colo. 2012).

B. Proposed Initiative No. 178 Contains Multiple Subjects Separate from the Measure's Financial Assurance Requirement

The measure, which is captioned "Oil and Gas Operator Financial Assurance," requires operators to provide a minimum of $270,000 financial assurance for each well. Pet. for Review, at 9. The financial assurance requirement is the subject most likely to garner voters' sole attention as it affirmatively creates a defined legal requirement related to closure and remediation of wells. The purpose of the financial assurance requirement is clear: to shutter almost all oil and gas development in the state. (Audio Recording of Feb. 19, 2020 Rehearing, at 56:42 – 57:00)

The measure contains other multiple subjects separate from the financial assurance requirement. These multiple subjects include repealing administrative rules and removing the General Assembly's direction that Colorado Oil and Gas Conservation Commission ("Commission") revisit the area of financial assurance as enacted in SB 19-181. These other subjects are "coiled up in the folds" of the measure. Repealing administrative rules and eliminating the General Assembly's

direction to the Commission are separate and distinct subjects that bear no necessary and proper connection to the existing financial assurance regulation.

C. Both Dangers of Omnibus Measures are Present with Proposed Initiative No. 178

The additional subjects described above and contained within the Petitioner's Motion for Rehearing implicate the very "dangers" the single-subject requirement is designed to prevent. First, they are "coiled up in the folds" of the measure. A voter who supports the measures because he or she supports operators bearing higher costs for well closure and remediation may be unaware that the measures result in the shuttering of almost all oil and gas development. And, a voter who supports the measure because he or she supports a minimum financial assurance may be unaware that the measure additionally removes control from the Commission, a substantial change from decades of practice. These subjects are buried in the measures, are not explicitly stated, or both. Second, the measures could garner support from different and competing factions and thus cause the measure to pass on their own even though its multiple subjects might not have been able to pass on their own. There is no reason to presume that voters who may support the $270,000 minimum financial assurance would additionally vote for a scheme which would shutter Colorado's oil and gas production, repeal the General Assembly's direction to the Commission under SB 19-181 and administrative rules

promulgated under SB 19-181. Such measures, which can pass only by combining subjects that appeal to different factions, violates the single-subject requirement. *See In re 2011-2012 No. 3*, 274 P.3d at 566.

III. PROPOSED INITIATIVE NO. 178's FISCAL IMPACT STATEMENT AND ABSTRACT FAIL TO COMPLY WITH THE REQUIREMENTS OF SECTION 1-40-105.5, C.R.S. BY PROVIDING VOTERS WITH NO MEANINGFUL INFORMATION, AND ARE MISLEADING AND PREJUDICAL

The General Assembly provided for a robust fiscal impact statement and a meaningful abstract to be included in the initiative process. This reflected the General Assembly's intent to provided voters with fiscal impact information earlier in the initiative process so that voters have the same fiscal information available during the initiative process that legislators have in the Bluebook for legislative bills. This requirement requires a full abstract be included on every page of the petition, rather than a two-sentence summary of the abstract as originally proposed. *See* Audio of Hearing on H.R. 1057 Before H. Comm. on Veterans Affairs, 1st Regular Sess., 70th Gen. Assembly (Colo. Mar. 25, 2015) at 58:40 – 59:35.

Notwithstanding the clear intent behind the abstract requirement, the Legislative Council's analysis in the abstract of the fiscal and economic impacts of the measures provides no meaningful discussion on, for example, the decrease in the amount of severance tax, royalty payments, and lease revenue; reduction of

jobs; or the implications to Colorado's GDP, to name just a few relevant topics. As reflected in the Rehearing testimony, Legislative Council could use current financial assurance information along with the number of oil and gas wells to provide a robust analysis. Rather, the abstract included vague references.

And because the financial assurance requirement shares the same clear intent of setback requirements in the Proposed Initiatives Nos. 173-177 to cease all oil and gas development, Legislative Council could rely upon the economic analysis provided for the setback requirements to provide some analysis. The Legislative Council has before it the 2018 study titled "Increasing the Oil and Gas Setback Requirement to 2,500-feet in Colorado: An Economic and Fiscal Impact Analysis" in addition to economic analysis it was provided in 2016 in the Proposed Initiative 2017-2018 No. 97 process. The Legislative Council has before it clearly defined fiscal and economic impacts, including the loss of an average of 104,000 jobs annually over the next 15 years, GDP decline of an average of $14 billion, and loss of $8.3 billion in real income by Coloradans.

The abstract and Financial Impact Statement fail to comply with the requirements set forth in Section 1-40-105.5, C.R.S. because they provides voters with no meaningful information on the measure's fiscal impact and are misleading and prejudicial.

A. The Abstract is legally inadequate because it does not contain an estimate and fails to comply with the requirements of Section 1-40-105.5(3).

Section 1-40-105.5(3), C.R.S. outlines the requirements of the abstract that must be provided by the Legislative Council of the General Assembly. The abstract must include "[a]n estimate of the effect the measure will have on state and local government revenues, expenditures, taxes, and fiscal liabilities if the measure is enacted." *Id*. at 105.5(3)(a).

The abstract fails to provide any estimates, merely stating that severance tax, royalty payments, and lease revenue that state and local government will collect in the future "is expected to decrease." Pet. for Review, at 15. This is not an estimate.

Also, the abstract states that the decrease in oil and gas activity will "reduce industry employment and profits as well as rent and royalty income to mineral owners in affected areas." *Id*. The abstract is silent on impacts on demand for associated services. This is also not an estimate. Therefore, the Title Board should

have modified the abstract to include estimates provided in the 2018 study, other studies readily available, or other available data.[4]

Lastly, the abstract also fails to include a statement of the measure's economic benefits for all Coloradans, simply stating that the measure will "increase income to providers of financial assurance and increase available mitigation funding for oil and gas wells." *Id*.

This Court has affirmed the Title Board's approval of an abstract where legislative council testified that it could not provide quantitative estimates. *See In the Matter of the Title, Ballot Title and Submission Clause for 2017-2018 No.4*, 2017 CO 57 ¶¶ 23-24. Here, the Legislative Council has been provided with specific economic analyses which provide quantitative estimates. Additional data is available to Legislative Council from other state agencies. Absent quantitative estimates, the Title Board erred in determining it had jurisdiction to set title for the measures.

B. The Abstracts are misleading and prejudicial.

[4] The state has recently examined the number of existing orphan wells and worked with legislators and stakeholders to determine the need for an orphan well fund. Data is readily available from this process to inform Legislative Council on the impacts of a minimum financial assurance for all wells.

As discussed above, the abstracts do not include actual estimates and instead provide vague generalities which fail to fully inform voters. The abstracts fail to express the magnitude in GDP decline and job loss if the minimum financial assurance is put in place. The vague generalities serve to mitigate the measures' actual effects. And voters are left with nothing meaningful before deciding whether to sign a petition. As a result, the abstract is incomplete and misleading.

Because the abstract is misleading and prejudicial under Section 1-40-107(1)(a)(II)(B), C.R.S., the Title Board's decision to set title must either be set aside for lack of jurisdiction or remanded back to the Title Board to allow the correction of deficiencies.

IV. THE TITLE IS MISLEADING AND FAILS TO ADVISE THE VOTERS OF THE CENTRAL PURPOSES OF THE MEASURE

Proposed Initiatives No. 178 contains a minimum financial assurance requirement of $270,000 per well. The measure is silent as to whether the requirement pertains to existing or only to new wells and does not provide for the manner in which oil and gas companies must satisfy the requirement. *See* Section (13), Proposed Initiative Nos. 178. It also misleads voters into believing that actual costs to close and remediate a well is $270,000.

The Title Board must consider the public confusion that might be caused by misleading titles and reject an initiative that cannot be understood clearly enough

to allow the setting of a clear title. C.R.S. §1-40-106(3)(a); *In re Proposed Initiative 1999-2000 No. 25*, 974 P.2d 458 (Colo. 1999).

On three separate occasions, a member of the Title Board agreed with Petitioner's counsel that the measure was confusing because it does not make explicit as to whether the minimum financial assurance requirement will be assigned to existing or only to new wells. Audio Recording of Feb. 19, 2020 Rehearing, at 58:53 – 58:54, 59:47 – 59:56, and 1:03:22 – 1:03:29. Testimony at the Rehearing by Proponents' counsel that the measure applies to new wells only is insufficient to cure this confusion. The Title Board has a duty to cure this defect and other defects in the Title. As the measure is currently written, the title violates the clear title requirement.

CONCLUSION

Petitioner respectfully requests the Court determine that the Title Board's finding on the Petitioner's Motion to Disqualify violated Petitioner's due process rights, any title setting determinations made by the Title Board are void, and remand the Motion to Disqualify for a full and fair hearing on the merits of the Motion.

In the alternative, Petitioner respectfully requests this Court reverse the Title Board's setting of Title for Proposed Initiative No. 178, return the Proposed Initiative to the Proponents, and hold that:

1. The measure violates the single-subject requirement, and thus the measure should return to the Proponents because the Title Board lacked the authority to set title;
2. The measure's financial impact statement and abstract do not comply with section 1-40-105.5(3), and are misleading and prejudicial, and thus must be returned to Legislative Council for redrafting and reconsideration by the Title Board;
3. The title for Proposed Initiative No. 178 is misleading and thus violates the clear title requirement.

Respectfully submitted this 18th day of March 2020.

MAVEN LAW GROUP

/s/ Suzanne Staiert
Suzanne Staiert
Attorney for the Petitioner

CERTIFICATE OF SERVICE/MAILING

I hereby certify that on 18th day of March, 2020 a true and correct copy of the **PETITIONER'S OPENING BRIEF** was served via the State of Colorado's ICCES File and Serve e-filing system, email and United States mail, postage prepaid, properly addressed to the following:

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