

<p>SUPREME COURT, STATE OF COLORADO</p> <p>2 East 14th Avenue Denver, Colorado 80203</p>	
<p>ORIGINAL PROCEEDING PURSUANT TO C.R.S. § 1-40-107(2)</p> <p><b>Petitioner:</b> Dan Gates</p> <p>v.</p> <p><b>Respondents:</b> Mark Surls and Carol Monaco</p> <p>and</p> <p><b>Colorado Ballot Title Setting Board:</b> Theresa Conley, Jeremiah Barry, and Kurt Morrison</p>	
<p><b>Attorneys for Petitioner:</b></p> <p>Jason R. Dunn, #33011 David B. Meschke, #47728 Neil S. Sandhu, #56600 BROWNSTEIN HYATT FARBER SCHRECK LLP 675 15th St, Suite 2900 Denver, CO 80202 Tel: 303.223.1100 Fax: 303.223.1111 jdunn@bhfs.com; dmeschke@bhfs.com; and nsandhu@bhfs.com</p>	<p>▲ COURT USE ONLY ▲</p> <p>Case Number:</p>
<p style="text-align: center;"><b>PETITION FOR REVIEW OF FINAL ACTION OF THE BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #91</b></p>	

Pursuant to section 1-40-107(2), Petitioner Dan Gates, through undersigned counsel, respectfully petitions this Court to review the title, ballot title, and submission clause set by the Colorado Ballot Title Setting Board (the “Title Board”) for Proposed Initiative 2023-2024 #91 (“Initiative #91”).

### **I. ACTION OF THE TITLE BOARD**

The Title Board conducted its initial public hearing on the Initiative on October 18, 2023. Petitioner subsequently filed a timely Motion for Rehearing on October 25, 2023, challenging:

- The Title Board’s jurisdiction, as the measure was substantially changed without additional review and comment by Legislative Council. *See* C.R.S. § 1-40-105(1).
- The Title Board’s jurisdiction, as the measure was so broad and confusing that it would be impossible for the Title Board to set an accurate title.
- The Title Board’s jurisdiction, as the measure contains several separate and distinct subjects. *See* C.R.S. § 1-40-106.5(1)(e).
- The proposed formulation of the title, as it did not accurately reflect the purpose or effect of the measure, was misleading, and contained an impermissible catchphrase. *See In re Title, Ballot Title and Submission Clause, and Summary for 1999-2000 No. 258(A)*, 4 P.3d 1094, 1100 (Colo. 2000).

Four other objectors—Cory Gaines, Grant Jerry, David Blake, and Jordan Goss<sup>1</sup>—also filed timely motions for rehearing. The Title Board considered the motions at a rehearing on November 1, 2023, and denied them except to the extent the Title Board amended the ballot title.

Petitioner now seeks review of the Title Board’s actions under C.R.S. § 1-40-107(2).

## II. ISSUES PRESENTED FOR REVIEW

- A. Whether the Title Board erred by setting a title for Initiative #91 when it lacks jurisdiction because the measure is substantially changed without additional review and comment by Legislative Council. C.R.S. § 1-40-105(1).
- B. Whether the Title Board erred by setting a title for Initiative #91 when it lacks jurisdiction because the measure is so broad and confusing that it would be impossible for the Title Board to set an accurate title.
- C. Whether the Title Board erred by setting a title for Initiative #91 when it lacks jurisdiction because the measure concerns multiple subjects. C.R.S. § 1-40-106.5(1)(e).
- D. Whether the Title Board erred by setting a title for Initiative #91 that is misleading and does not accurately reflect the purpose or effect of the measure.

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<sup>1</sup> Mr. Goss’s motion, which is an email, may be more accurately characterized as public comment.

### **III. SUPPORTING DOCUMENTATION**

As required by section 1-40-107(2), attached are certified copies of: (1) the final copy of Initiative #91 as submitted to the Title Board; (2) the Motion for Rehearing filed by the Petitioner; (3) the determinations and final action by the Title Board; and (4) the initial fiscal summary.

### **IV. RELIEF REQUESTED**

Petitioner respectfully requests that the Court reverse the Title Board's denial of Petitioner's Motion for Rehearing, hold that the Title Board lacked jurisdiction to set title for Initiative #91, and direct the Title Board to remand the Initiative back to Legislative Council. Alternatively, the Petitioner respectfully requests that the Court reverse the Title Board's denial of Petitioner's Motion for Rehearing and direct the Title Board to correct the title to address the deficiencies outlined in Petitioner's brief.

Respectfully submitted on November 8, 2023.

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 8, 2023, I electronically filed a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF THE BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #91** with the clerk of Court via the Colorado Courts E-Filing system which will send notification of such filing and service upon the following:

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