

<b>SUPREME COURT, STATE OF COLORADO</b> 2 East 14 <sup>th</sup> Avenue Denver, Colorado 80203	
Original Proceeding Pursuant to §1-40-107(2), C.R.S. (2017) Appeal from the Ballot Title Board	
In the Matter of the Title, Ballot Title, and Submission Clause for Proposed Initiative 2023-2024 # 150 (“Damages Involving Catastrophic Injury or Wrongful Death”)  <b>Petitioner:</b> Alethia Morgan  v.  <b>Respondents:</b> Evelyn Hammond and Lucas Granillo  and  <b>Title Board:</b> Theresa Conley, Jeremiah Barry, and Kurt Morrison	<b>▲ COURT USE ONLY ▲</b>
ATTORNEYS FOR PETITIONER: Benjamin J. Larson, #42540 William A. Hobbs, #7753 A. Thomas Downey, #29490 IRELAND STAPLETON PRYOR & PASCOE, PC 1660 Lincoln Street, Suite 3000 Denver, CO 80264 Telephone: 303-623-2700 Facsimile: 303-623-2062 E-mail: <a href="mailto:blarson@irelandstapleton.com">blarson@irelandstapleton.com</a> <a href="mailto:bhobbs@irelandstapleton.com">bhobbs@irelandstapleton.com</a> <a href="mailto:tdowney@irelandstapleton.com">tdowney@irelandstapleton.com</a>	Supreme Court Case No.:
<b>PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #150 (“DAMAGES INVOLVING CATASTROPHIC INJURY OR WRONGFUL DEATH “)</b>	

Alethia Morgan (“Petitioner”), registered elector of the State of Colorado, through counsel, IRELAND STAPLETON PRYOR & PASCOE, PC, respectfully petitions this Court pursuant to C.R.S. § 1-40-107(2) to review the actions of the Title Setting Board with respect to the title, ballot title, and submission clause set for Initiative 2023-2024 #150 (“Damages Involving Catastrophic Injury or Wrongful Death”).

## **I. STATEMENT OF THE CASE**

### **A. Procedural History of Proposed Initiative 2023-2024 #150**

Evelyn Hammond and Lucas Granillo (“Proponents”) proposed Initiative 2023-2024 #150 (the “Proposed Initiative”). Review and comment hearings were held before representatives of the Offices of Legislative Council and Legislative Legal Services. Thereafter, Proponents submitted amended and final versions of the Proposed Initiative to the Secretary of State for purposes of submission to the Title Board.

A Title Board hearing was held on March 6, 2024, at which time a title was set for the Proposed Initiative. On March 13, 2024, Petitioner filed a Motion for Rehearing, alleging that the Proposed Initiative contained multiple subjects and that its titles were unfair, inaccurate, and incomplete. The rehearing was held on March 20, 2024, at which time the Title Board made limited changes to the titles but otherwise denied the Motion for Rehearing by a 2-1 vote.

## **B. Jurisdiction**

Petitioner is entitled to a review before the Colorado Supreme Court pursuant to C.R.S. § 1-40-107(2). Petitioner timely filed her Motion for Rehearing with the Title Board. *See* C.R.S. § 1-40-107(1). Additionally, Petitioner timely filed this Petition for Review within 7 days from the date of the hearing on Motion for Rehearing. C.R.S. § 1-40-107(2).

As required by C.R.S. § 1-40-107(2), attached to this Petition for Review are certified copies of: (1) the initiative filed by Proponents; (2) the original ballot titles set for this initiative; (3) the Motion for Rehearing filed by Petitioner; and (4) the rulings on the Motion for Rehearing as reflected by the titles and ballot title and submission clauses set by the Title Board. Petitioner believes the Title Board erred in denying the Motion for Rehearing as to the single subject issue, or alternatively on clear title grounds, and therefore this matter is properly before the Court.

## **II. GROUNDS FOR APPEAL**

The titles set by the Title Board do not comply with the single subject requirement set forth in article V, § 1(5.5) of the Colorado Constitution. Alternatively, the titles set violate clear title requirements. The following is an advisory list of issues to be addressed on appeal.

1. Whether the Proposed Initiative violates the single subject requirement when, in cases involving catastrophic injury or wrongful death, the measure, among other things: (a) removes all damages caps across different state laws that were put in place for different policy reasons; (b) decreases the burden of proof required for enhanced damages; and (c) removes the judiciary's oversight over the jury as it relates to damages.
2. If the Title Board had jurisdiction to set a title, whether the titles set violate the clear-title requirements because they:
  - a. Fail to identify the host of damages-related laws changed by the measure;
  - b. Fail to alert voters of the lowering of various burdens of proof for the availability and enhancement of certain damages under current law;
  - c. Fail to inform voters about the impacts on the powers of the judiciary, including removing the judiciary's oversight over punitive damages awards; and
  - d. Adopt the measure's catchphrase, "catastrophic injury", rather than using the definition of the term, which includes any injury that "seriously limits activities of normal daily life".

### III. CONCLUSION

WHEREFORE, Petitioner respectfully request that this Court reverse the Title Board setting for Initiative 2023-2024 #150 because it violates the single subject requirement. In the alternative, Petitioner respectfully requests that the Court direct the Title Board to correct the titles to address the deficiencies outlined in Petitioner's pleadings.

Respectfully submitted this 27<sup>th</sup> day of March, 2024.

IRELAND STAPLETON PRYOR & PASCOE, PC

/s/ Benjamin J. Larson

Benjamin J. Larson, #42540

William A. Hobbs, #7753

A. Thomas Downey, #29490

**ATTORNEYS FOR PETITIONER**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27<sup>th</sup> day of March, 2024, a true and correct copy of the foregoing **PETITION FOR REVIEW OF FINAL ACTION OF BALLOT TITLE SETTING BOARD CONCERNING PROPOSED INITIATIVE 2023-2024 #150 (“DAMAGES INVOLVING CATASTROPHIC INJURY OR WRONGFUL DEATH “)** was duly filed with the Court and served via CCEF upon the following:

Evelyn Hammond and Lucas Granillo  
c/o Martha Tierney  
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*Attorneys for Respondents*

Attorney General Phil Weiser  
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*Attorney for Title Board*

*/s/ Taryn C. Eastwood*

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Taryn C. Eastwood