Oklahoma Secretary of State

March 1, 2012

Mr. Daniel P. Skerbitz
P.O. Box 35404
Tulsa, OK 74153

Dear Mr. Skerbitz:

This will acknowledge receipt of the petition for filing which has been designated as:

State Question Number 761
Initiative Petition Number 395

filed this 1st day of March, 2012 at 3:30 p.m.

Pursuant to 34 O.S. § 9, after the filing of the petition and prior to the gathering of signatures, the Secretary of State shall submit the proposed ballot title of this petition to the Attorney General for review as to legal correctness.

Please be aware that once the ballot title review is completed, there will be a Notice of Filing published, as required by 34 O.S. § 8, in which any citizen or citizens of the state may file a protest as to the constitutionality of the petition or the ballot title.

The circulation period for petitions, according to 34 O.S. § 8, is within ninety (90) days after such filing of an initiative petition or determination of the sufficiency of the petition by the Supreme Court, whichever is later. Should your due date fall on a weekend or holiday or a day that this office is closed for business, pursuant to 25 O.S. § 82.1 (C.) and in accordance with AG Opinion 76-195, the due date for this petition will fall on the next succeeding business day that this office is open for business.

If our office may be of further assistance, please do not hesitate to contact the Executive Legislative Division at (405) 522-4564.

Sincerely,

Michelle R. Day
Assistant Secretary of State
State Question No. 761 Initiative Petition No. 395

WARNING

IT IS A FELONY FOR ANYONE TO SIGN AN INITIATIVE OR REFERENDUM PETITION WITH ANY NAME OTHER THAN HIS OWN, OR KNOWINGLY TO SIGN HIS NAME MORE THAN ONCE FOR THE MEASURE, OR TO SIGN SUCH PETITION WHEN HE IS NOT A LEGAL VOTER.

INITIATIVE PETITION

To the Honorable Mary Fallin, Governor of Oklahoma:

We, the undersigned legal voters of the State of Oklahoma respectfully order that the following proposed amendment to the constitution be submitted to the legal voters of the State of Oklahoma for their approval or rejection at the regular general election to be held on the 6th day of November, 2012, and each for himself says: I have personally signed this petition; I am a legal voter of the State of Oklahoma; my residence or post office are correctly written after my name. The time for filing this petition expires ninety days from March 1st, 2012. The question we herewith submit to our fellow voters is:

Shall the following proposed new Article 2, Section 38 of the Constitution be approved?

BALLOT TITLE

This measure adds a new section to the Oklahoma Constitution to reconcile recent scientific developments with the definition of a human being for the purpose of equal protection under the law. The proposed amendment expands the legal definition of humanity or "personhood" to include every human being, regardless of place of residence, race, gender, age, disability, health, level of function, condition of dependency, or method of reproduction, from the beginning of biological development to the end of natural life. The amendment applies the term "person" under the Oklahoma Constitution equally to every human being so defined and prohibits the intentional killing of any such "person" without due process of law.

Shall the following proposed new Article 2, Section 38 of the Constitution be approved?

For the proposal – YES

Against the proposal – NO

A "YES" vote is a vote in favor of this proposal. A "NO" vote is against this measure.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA THAT A NEW ARTICLE 2, SECTION 38 OF THE OKLAHOMA CONSTITUTION BE APPROVED:

RIGHTS OF THE PERSON.

A "PERSON" AS REFERRED TO IN ARTICLE 2, SECTION 2 OF THIS CONSTITUTION SHALL BE DEFINED AS ANY HUMAN BEING FROM THE BEGINNING OF THE BIOLOGICAL DEVELOPMENT OF THAT HUMAN BEING TO NATURAL DEATH. THE INHERENT RIGHTS OF SUCH PERSON SHALL NOT BE DENIED WITHOUT DUE PROCESS OF LAW AND NO PERSON AS DEFINED HEREIN SHALL BE DENIED EQUAL PROTECTION UNDER THE LAW DUE TO AGE, PLACE OF RESIDENCE OR MEDICAL CONDITION.

Name and Address of Proponents:

Mr. Daniel P. Skerbitz
P.O. Box 35404
Tulsa, OK 74153

Rep. Mike Reynolds
2609 SW 107th St.
Oklahoma City, OK 73170

Mr. T. Russell Hunter
2700 Creekview Place
Norman, OK 73071
SIGNATURES

THE GIST OF THE PROPOSITION IS AS FOLLOWS:

This measure adds a new section to the Oklahoma Constitution to reconcile recent scientific developments with the definition of a human being for the purpose of equal protection under the law. The proposed amendment expands the legal definition of humanity or "personhood" to include every human being, regardless of place of residence, race, gender, age, disability, health, level of function, condition of dependency, or method of reproduction, from the beginning of biological development to the end of natural life. The amendment applies the term "person" under the Oklahoma Constitution equally to every human being so defined and prohibits the intentional killing of any such "person" without due process of law.

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20. SIGNATURE OF LEGAL VOTER  PRINT NAME  ADDRESS  CITY  ZIP  COUNTY
AFFIDAVIT

STATE OF OKLAHOMA

COUNTY OF ____________________________

1. ____________________________________________, being first duly sworn, say: That I am a qualified elector of the State of Oklahoma and that signed this sheet of the foregoing petition, and each of them signed his name thereto in my presence:

1. ____________________________________________
2. ____________________________________________
3. ____________________________________________
4. ____________________________________________
5. ____________________________________________
6. ____________________________________________
7. ____________________________________________
8. ____________________________________________
9. ____________________________________________
10. ____________________________________________
11. ____________________________________________
12. ____________________________________________
13. ____________________________________________
14. ____________________________________________
15. ____________________________________________
16. ____________________________________________
17. ____________________________________________
18. ____________________________________________
19. ____________________________________________
20. ____________________________________________

I believe that each has stated his name, post office address, and residence correctly, and that each signer is a legal voter of the State of Oklahoma and county of his residence as stated.

__________________________________________
Circulator's Signature

__________________________________________
Address

__________________________
City                   Zip Code

Subscribed and sworn to before me this _______ day of ___________________ A.D. 20___.

__________________________________________
Notary Public

__________________________________________
Address

__________________________
City                   Zip Code

My Commission Expires: _______________________

My Commission Number: _______________________
The Honorable E. Scott Pruitt  
Attorney General  
313 NE 21st Street  
Oklahoma City, Oklahoma 73105

Dear Attorney General Pruitt:

You are hereby notified that Mr. Dan Skerbitz, P.O. Box 35404, Tulsa, Oklahoma 74153, filed an initiative petition on March 1, 2012, with the Secretary of State. This petition is designated as State Question Number 761, Initiative Petition Number 395.

Pursuant to 34 O.S., § 8, the signatures for this petition are required to be filed within ninety (90) days after the filing of the petition or determination of the sufficiency of the petition by the Supreme Court as provided in this section, whichever is later. The signature requirement for this petition is 155,216.

The proposed ballot title is hereby submitted to you for review as to legal correctness pursuant to the provisions of 34 O.S. § 9(D).

If additional information is needed from this office, or if we may be of further assistance, please contact me.

Sincerely,

V. Glenn Coffee  
Secretary of State

Michelle R. Day  
Assistant Secretary of State

Enclosure: State Question 761
March 2, 2012

The Honorable Mary Fallin  
Governor, State of Oklahoma  
Room 212, State Capitol  
Oklahoma City, Ok 73105

Dear Governor Fallin:

Please be advised that Mr. Dan Skerbitz, P.O. Box 35404, Tulsa, Oklahoma 74153, filed an initiative petition on March 1, 2012, with the Secretary of State. This petition is designated as State Question Number 761, Initiative Petition Number 395.

Pursuant to 34 O.S., § 8, the signatures for this petition are required to be filed within ninety (90) days after the filing of the petition or determination of the sufficiency of the petition by the Supreme Court as provided in this section, whichever is later. The signature requirement for this petition is 155,216.

The proposed ballot title has been submitted to the Attorney General for review as to legal correctness pursuant to the provisions of 34 O.S. § 9 (D).

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

V. Glenn Coffee  
Secretary of State

Michelle R. Day  
Assistant Secretary of State

Enclosure: State Question 761
March 2, 2012

The Honorable Paul Ziriax  
Secretary, Oklahoma State Election Board  
Room 3, State Capitol  
Oklahoma City, Oklahoma 73105

Dear Secretary Ziriax:

Please be advised that Mr. Dan Skerbitz, P.O. Box 35404, Tulsa, Oklahoma 74153, filed an initiative petition on March 1, 2012, with the Secretary of State. This petition is designated as State Question Number 761, Initiative Petition Number 395.

Pursuant to 34 O.S., § 8, the signatures for this petition are required to be filed within ninety (90) days after the filing of the petition or determination of the sufficiency of the petition by the Supreme Court as provided in this section, whichever is later. The signature requirement for this petition is 155,216.

The proposed ballot title has been submitted to the Attorney General for review as to legal correctness pursuant to the provisions of 34 O.S. § 9 (D).

If I may be of further assistance, please do not hesitate to contact me.

Sincerely,

V. Glenn Coffee  
Secretary of State

Michelle R. Day  
Assistant Secretary of State

Enclosure: State Question 761
March 8, 2012

Glenn Coffee, Secretary of State  
Office of the Secretary of State  
2300 N. Lincoln Blvd., Room 101  
Oklahoma City, Oklahoma 73105-4897

Dear Secretary Coffee:

Re: Ballot Title for State Question No. 761, Initiative Petition No. 395

Dear Secretary Coffee:

In accordance with the provisions of 34 O.S.2011, § 9(D), we have reviewed the proposed Ballot Title for the above-referenced State Question and conclude that it does not comply with applicable laws for the following reasons:

1. It does not adequately explain the effect of the proposition as, among other things:
   • it does not define the phrase “the beginning of the biological development” nor explain how that phrase may apply to medical procedures and contraceptive measures;
   • it defines “person” in a manner broader than the measure.

2. The measure reflects partiality in its composition as it states that it “reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law.”

Having found that the Ballot Title does not comply with applicable laws, we will, in accordance with the provisions of 34 O.S.2011, § 9(D), within ten (10) business days, prepare a Ballot Title which complies with the law.

Sincerely,

E. SCOTT PRUITT
ATTORNEY GENERAL

ESP/ab
March 16, 2012

Glenn Coffee, Secretary of State
Office of the Secretary of State
2300 N. Lincoln Blvd., Room 101
Oklahoma City, Oklahoma 73105-4897

Re: Ballot Title for State Question No. 761, Initiative Petition No. 395

Dear Secretary Coffee:

Having found that the proposed ballot title for the above-referenced state question did not comply with applicable laws, we have, in accordance with the provisions of 34 O.S.2011, § 9(D), prepared the following Ballot Title. As a Title 34 Ballot Title review, the following does not constitute an Attorney General Opinion on either the constitutionality of the underlying proposed changes to Oklahoma law or the potential preemptive effect of federal law. The Ballot Title reads as follows:

**Ballot Title**

This measure adds a new section of the Oklahoma Constitution.

The section defines a "person" for purposes of Article 2, Section 2 of the Oklahoma Constitution, which provides all persons with the inherent right to life, liberty, and the pursuit of happiness. The measure defines "person" as any human being from the beginning of biological development to natural death. Biological development of a human being begins at fertilization, which is the fusion of a female egg with a human male sperm to form a new cell.

The measure vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to "persons" as defined by this measure. The measure thus generally prohibits abortion.

The measure does not prohibit contraceptive methods that prevent the creation of a "person" as defined by this measure.
prohibit contraception methods that result in termination of a "person."

The measure would also protect "persons" created in a laboratory, which would affect, but not prohibit, medical procedures such as in vitro fertilization. For example, "persons" created in a laboratory as part of the medical procedure could not be deliberately destroyed.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES

AGAINST THE PROPOSAL - NO

Respectfully submitted,

E. Scott Pruitt
Attorney General

ESP/ab
March 19, 2012

Cindy Shea
Oklahoma Press Service
3601 N. Lincoln
Oklahoma City, OK 73105

Dear Ms. Shea:

Please publish the attached Notice of Filing for State Question Number 761, Initiative Petition Number 395. Pursuant to 34 O.S. § 8, the publication must appear in at least one newspaper of general circulation in the State of Oklahoma. Please publish in The Oklahoman, Tulsa World, and the Journal Record as soon as possible. As always, we ask you to provide us with verified proof of publication of the Notice.

Should you have any questions, please do not hesitate to contact us.

Sincerely,

Michelle R. Day
Assistant Secretary of State

cc: Daniel Skerbitz
    Rep. Mike Reynolds
    T. Russell Hunter
NOTICE OF THE FILING OF
STATE QUESTION NUMBER 761,
INITIATIVE PETITION NUMBER 395

NOTICE is hereby given that on March 1, 2012, State Question Number 761, Initiative Petition Number 395 was filed in the Office of the Secretary of State. The petition appears on its face to sufficiently meet the statutory requirements for filing with the Office of the Secretary of State. The Ballot Title, as rewritten by the Attorney General pursuant to state statutes, states:

This measure adds a new section of the Oklahoma Constitution.

The section defines a "person" for purposes of Article 2, Section 2 of the Oklahoma Constitution, which provides all persons with the inherent right to life, liberty, and the pursuit of happiness. The measure defines "person" as any human being from the beginning of biological development to natural death. Biological development of a human being begins at fertilization, which is the fusion of a female egg with a human male sperm to form a new cell.

The measure vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to "persons" as defined by this measure. The measure thus generally prohibits abortion.

The measure does not prohibit contraceptive methods that prevent the creation of a "person" as defined by this measure. The measure would prohibit contraception methods that result in termination of a "person."

The measure would also protect "persons" created in a laboratory, which would affect, but not prohibit, medical procedures such as in vitro fertilization. For example, "persons" created in a laboratory as part of the medical procedure could not be deliberately destroyed.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL – YES
AGAINST THE PROPOSAL – NO

NOTICE is hereby given that as provided in 34 O.S. §§ 8 and 10, any citizen or citizens of the state may file a protest as to the constitutionality of the petition or as to the ballot title, by a written notice to the Supreme Court and to the proponents filing the petition. Proponents filing are: Mr. Daniel P. Skerbitz, P.O. Box 35404, Tulsa, OK 74153; Rep. Mike Reynolds, 2609 S.W. 107th St., Oklahoma City, OK 73170; and Mr. T. Russell Hunter, 2700 Creekview Place, Norman, OK 73071. Any such protest must be filed within ten (10) days after this publication. A copy of the protest shall also be filed with the Secretary of State.
V. Glenn Coffee
Secretary of State
Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., all of whom are citizens of Oklahoma, protest the legal sufficiency of Initiative Petition No. 395, State Question No. 761 ("IP 395"), as follows:

Preliminary Statement

1. In 1992, this Court rejected an attempt to use the initiative process to ban abortion, holding that the initiative process could not be used to curtail rights secured to women by the
federal Constitution. *In re Initiative Petition No. 349, State Question No. 642, 1992 OK 122, 838 P.2d 1.* In the twenty years since that decision, courts have repeatedly reaffirmed the federal Constitution’s protections for a woman’s right to decide whether to continue or interrupt a pregnancy.

2. The amendment to the Oklahoma Constitution proposed by IP 395 is intended to, and will, ban abortion in direct violation of both the federal Constitution and this Court’s clear declaration that Oklahoma’s initiative process may not be invoked for that purpose. Further, it would infringe on a woman’s federal constitutional right to decide whether and when to conceive by banning most forms of contraception and effectively prohibiting medical interventions, like *in vitro* fertilization, that assist with conception. In addition, IP 395 violates Art. 24, § 1, of the Oklahoma Constitution because it addresses more than one subject. Finally, IP 395 contains a statement of the gist that is so misleading and inaccurate that it fails to satisfy the requirements of 34 Okla. Stat. § 3.

**Background**


5. The Attorney General identified two examples of the ballot title’s failure to adequately explain the effect of the initiative: the ballot title “[did] not define the phrase ‘the beginning of the biological development’ nor explain how that phrase may apply to medical procedures and contraceptive measures”; and the ballot title “define[d] ‘person’ in a manner broader than the measure.” Id.

6. The Attorney General explained that IP 395’s ballot title reflected “partiality in its composition as it states that it ‘reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law.’” Id.

7. On March 19, 2012, the Secretary of State received the ballot title prepared by the Attorney General. As rewritten by the Attorney General, the ballot title states:

This measure adds a new section of the Oklahoma Constitution.

The section defines a “person” for purposes of Article 2, Section 2 of the Oklahoma Constitution, which provides all persons with the inherent right to life, liberty, and the pursuit of happiness. The measure defines “person” as any human being from the beginning of biological development to natural death. Biological development of a human being begins at fertilization, which is the fusion of a female egg with a human male sperm to form a new cell.

The measure vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to “persons” as defined by this measure. The measure thus generally prohibits abortion.
The measure does not prohibit contraceptive methods that prevent the creation of a “person” as defined by this measure. The measure would prohibit contraception methods that result in termination of a “person.”

The measure would also protect “persons” created in a laboratory, which would affect, but not prohibit, medical procedures such as in vitro fertilization. For example, “persons” created in a laboratory as part of the medical procedure could not be deliberately destroyed.


8. The ballot title, as rewritten by the Attorney General, does not contain the statement that the initiative “reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law.” Id.


10. On March 22, 2012, the Secretary of State published notice of the filing of IP 395 in newspapers of record in Oklahoma.

**IP 395 Violates the Fourteenth Amendment to the U.S. Constitution.**

11. The amendment to the Oklahoma Constitution proposed by IP 395 would confer rights on a fertilized egg that trump the rights of each woman to determine whether and when to conceive and whether to carry a pregnancy to term. Thus, the amendment would have far-reaching effects, including but not limited to (i) banning abortion without exception, and (ii) interfering with a woman’s exercise of her right to decide whether and when to conceive, including the use of contraception or medical interventions like *in vitro* fertilization.
12. By conferring constitutional rights on a fertilized egg, the amendment to the Oklahoma Constitution proposed by IP 395 would clearly ban abortion, as its proponents intend it to do.

13. In addition, conferring these rights on a fertilized egg would effectively prohibit contraceptives, like birth control pills and intrauterine devices, whose possible mechanisms of action include preventing a fertilized egg from implanting.

14. Further, IP 395 would effectively ban medical interventions like in vitro fertilization, which necessarily involves fertilizing eggs that are very often not successfully implanted.

15. Moreover, IP 395 would have potentially dire implications for a woman who needs medical treatment for ectopic pregnancy, a health-endangering and potentially life-endangering condition which occurs when a fertilized egg implants outside a woman’s uterus, including by preventing her from receiving such treatment; for an incomplete miscarriage; or for particularly dangerous circumstances that can arise in the context of a high-risk pregnancy.

Const. ("The State of Oklahoma is an inseparable part of the Federal Union, and the Constitution of the United States is the supreme law of the land.")

**IP 395 Violates the Single-Subject Rule.**

17. The amendment proposed by IP 395 contains two unrelated subjects in violation of Art. 24, § 1, of the Oklahoma Constitution.

18. First, the amendment would redefine “person” for purposes of Art. II, § 2, of the Oklahoma Constitution to include a fertilized egg and confer due process and equal protection rights on each “person” as re-defined.

19. Second, the amendment would expand the bases for equal protection of the laws under Art. II, § 7, of the Oklahoma Constitution, by adding age, place of residence, and medical condition as protected classes.

20. Voters might support expanding the equal protection guarantee to include those three protected classes, but not redefining “person,” or *vice versa*.

**Statement of the Gist**

21. The statement of the gist of the amendment proposed by IP 395 is identical to the ballot title that was originally submitted with IP 395, which the Attorney General deemed not to be in compliance with applicable laws.

22. The signature sheet for any petition to amend the Constitution must contain a “simple statement of the gist of the proposition.” Okla. Stat. tit. 34, § 3. This Court has explained that a statement of the gist “should be sufficient that the signatories are at least put on notice of the changes being made.” In re Initiative Petition No. 384, State Question No. 731, 2007 OK 48, ¶¶ 7, 10, 164 P.3d 125, 129.
23. The statement of the gist of IP 395 fails to put voters on notice of the actual effect of IP 395 in at least the following ways:

A. The statement of the gist includes the assertion, deemed to reflect “partiality” by the Attorney General, that the amendment proposed by IP 395 “reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law.” In addition to being inappropriately partial, this statement is misleading for at least two reasons. First, the use of that phrase suggests inappropriately and without evidence that the amendment is supported by scientific research. Second, the amendment is far broader than simply expanding the definition of human being for purposes of equal protection; rather, the amendment would redefine “person” as used in Art. II, § 2, (the inherent rights clause) of the Oklahoma Constitution, and secure due process and equal protection rights for every “person.”

B. The statement of the gist misstates the amendment’s effect by claiming that the amendment “expands the legal definition of humanity or ‘personhood.’” The amendment redefines “person” as used in Art. II, § 2, of the Oklahoma Constitution and grants due process and equal protection rights to those persons, but it does not redefine “humanity” or “personhood.”

C. The statement of the gist misstates the amendment’s alteration of the constitutional standards for equal protection of the law, by claiming that the amendment would prohibit discrimination on the following bases: “place of residence, race, gender, age, disability, health, level of function, condition of dependency, or method of reproduction.” The text of the proposed
amendment, however, prohibits discrimination based on a different and shorter list of criteria: “age, place of residence or medical condition.” Moreover, the statement of the gist misstates the effect of the proposed amendment by failing to explain the effect of adding the protected classes of age, place of residence or medical condition to the equal protection guarantee.

D. The statement of the gist uses the vague and confusing phrases “beginning of biological development”—which the Attorney General found to be unclear in the proponents’ original ballot title—and “end of natural life.”

E. The statement of the gist inaccurately claims that the amendment proposed by IP 395 would “prohibit[] the intentional killing of any such “person” without due process of law.” This statement implies that the amendment would affect only intentional killing, whereas the amendment contains no language that would limit its application to killing or to intentional acts.

F. The statement of the gist misstates the effect of the amendment proposed by IP 395 because, among other things, it does not explain that the amendment would ban abortion and interfere with women’s right to decide whether and when to conceive by banning most forms of contraception and medical interventions, such as in vitro fertilization, that assist with conception.

24. Because of these inaccuracies and the multiple deceptive and misleading assertions in the statement of the gist, it could not possibly put a voter on notice of the effect of the amendment proposed by IP 395. Thus, a voter could not make an informed decision about whether to sign the petition.
WHEREFORE, the Protestants respectfully request that this Court declare IP 395 unconstitutional, insufficient as a matter of law and invalid for all purposes, for the reasons set forth above.

Dated: March 29, 2012

Respectfully submitted,

Chelsea C. Smith
Anne E. Zachritz, OBA No. 15608
Chelsea C. Smith, OBA No. 30728
ANDREWS DAVIS
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW
100 N. Broadway, Ste. 3300
Oklahoma City, OK 73102-8812
Phone: (405) 272-9241
Fax: (405) 235-8786
Email: aezachritz@andrewsdavis.com
ccsmith@andrewsdavis.com

and

Martha M. Hardwick
OBA No. 3847
HARDWICK LAW OFFICE
P.O. Box 35975
Tulsa, OK 74153-0975
Phone: (918) 749-3313
Fax: (918) 742-1819
Email: mh@hardwicklawoffice.com

and
Michelle Movahed*  
New York Bar Registration No. 4552063  
Illinois Bar No. 62918636  
David Brown*  
New York Bar Registration No. 4863544  
CENTER FOR REPRODUCTIVE RIGHTS  
120 Wall St., 14th Floor  
New York, NY 10005-3904  
Phone: (917) 637-3600  
Fax: (917) 637-3666  
Email: mmovahed@reprorights.org  
dbrown@reprorights.org  
*Out-of-State Attorney Applications Filed.

and

Ryan D. Kiesel  
OBA No. 21254  
ACLU OF OKLAHOMA FOUNDATION  
3000 Paseo Dr.  
Oklahoma City, OK 73103  
Phone: (405) 524-8511  
Email: rkiesel@acluok.org

and

Susan Talcott Camp*  
AMERICAN CIVIL LIBERTIES UNION FOUNDATION  
125 Broad St.  
New York, NY 10004  
Phone: (212) 549-2632  
Email: tcamp@aclu.org  
*Out-of-State Attorney Application in Progress.

ATTORNEYS FOR PROTESTANTS
CERTIFICATE OF SERVICE AND MAILING

I hereby certify that on the 29th day of March 2012, a true and correct copy of the above PROTEST TO THE INITIATIVE PETITION was filed with the Supreme Court of Oklahoma, and with the Secretary of State and was personally served on the following person at the address indicated:

V. Glenn Coffee
Secretary of State
2300 N. Lincoln Blvd., Ste. 101
Oklahoma City, OK 73105-4897

In addition, a true and correct copy of the above PROTEST TO THE INITIATIVE PETITION was mailed, postage prepaid, via certified mail to the following persons at the addresses indicated:

Daniel P. Skerbitz
P.O. Box 35404
Tulsa, OK 74153

Daniel P. Skerbitz
4942 S. 72nd E. Ave.
Tulsa, OK 74145

Rep. Mike Reynolds
2609 SW 107th St.
Oklahoma City, OK 73170

T. Russell Hunter
2700 Creekview Place
Norman, OK 73071

Chelsea C. Smith
CHIEF PETITIONER
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: )
) )
INITIATIVE PETITION NO. 395 ) Case No. #110545
) )
STATE QUESTION NO. 761 )
)

ENTRY OF APPEARANCE

The undersigned attorney hereby appears as counsel for the Protestants in this case.


Respectfully submitted,

Anne E. Zachritz, OBA No. 15608
ANDREWS DAVIS, P.C.
ATTORNEYS AND COUNSELLORS AT LAW
100 North Broadway Avenue, Suite 3300
Oklahoma City, OK 73102
Telephone: (405) 272-9241
Facsimile: (405) 235-8786
E-mail: aezachritz@andrewsdavis.com

ATTORNEYS FOR PROTESTANTS
CERTIFICATE OF MAILING TO PARTIES

This is to certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, this 29th day of March, 2012, to:

Mr. Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Mr. Daniel P. Skerbitz  
4942 S. 72nd E. Ave.  
Tulsa, OK 74145

Rep. Mike Reynolds  
2609 SW 107th St.  
Oklahoma City, OK 73170

Mr. T. Russell Hunter  
2700 Creekview Place  
Norman, OK 73071

V. Glenn Coffee  
Secretary of State  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897

Anne E. Zachritz
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: INITIATIVE PETITION NO. 395
STATE QUESTION NO. 761

ENTRY OF APPEARANCE

The undersigned attorney hereby appears as counsel for the Protestants in this case.


Respectfully submitted,

Chelsea Celsor Smith
Chelsea Celsor Smith, OBA No. 30728
ANDREWS DAVIS, P.C.
ATTORNEYS AND COUNSELORS AT LAW
100 North Broadway Avenue, Suite 3300
Oklahoma City, OK 73102
Telephone: (405) 272-9241
Facsimile: (405) 235-8786
E-mail: ccsmith@andrewsdavis.com

ATTORNEYS FOR PROTESTANTS
CERTIFICATE OF MAILING TO PARTIES

This is to certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, this 29th day of March, 2012, to:

Mr. Daniel P. Skerbitz
P.O. Box 35404
Tulsa, OK 74153

Mr. Daniel P. Skerbitz
4942 S. 72nd E. Ave.
Tulsa, OK 74145

Rep. Mike Reynolds
2609 SW 107th St.
Oklahoma City, OK 73170

Mr. T. Russell Hunter
2700 Creekview Place
Norman, OK 73071

V. Glenn Coffee
Secretary of State
2300 N. Lincoln Blvd., Ste. 101
Oklahoma City, OK 73105-4897

[Signature]
Chelsea Celsor Smith
I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of TULSA WORLD - Legal, a Daily newspaper printed and published in the city of TULSA, county of Tulsa, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is hereunto attached, was published in said TULSA WORLD - Legal in consecutive issues on the following dates-to-wit:

Insertion: 03/22/2012

That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE $475.13

(Notary Public)

Y. Glenn Coffee
Secretary of State

RECEIVED
APR 04 2012
OKLAHOMA SECRETARY OF STATE

NOTICE OF THE FILING OF STATE QUESTION NUMBER 761, INITIATIVE PETITION NUMBER 395

NOTICE is hereby given that on March 1, 2012, State Question Number 761, Initiative Petition Number 395 was filed in the Office of the Secretary of State. The petition appears on its face to sufficiently meet the statutory requirements for filing with the Office of the Secretary of State. The Ballot Title, as rewritten by the Attorney General pursuant to state statutes, states:

This measure adds a new section of the Oklahoma Constitution.

The section defines a "person" for purposes of Article 2, Section 2 of the Oklahoma Constitution, which provides all persons with the inherent right to life, liberty, and the pursuit of happiness. The measure defines "person" as any human being from the beginning of biological development to natural death. Biological development of a human being begins at fertilization, which is the fusion of a female egg with a human male sperm to form a new cell.

The measure vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to "persons" as defined by this measure. The measure thus generally prohibits abortion.

The measure does not prohibit contraceptive methods that prevent the creation of a "person" as defined by this measure. The measure would prohibit contraception methods that result in termination of a "person."

The measure would also protect "persons" created in a laboratory, which would affect, but not prohibit, medical procedures such as in vitro fertilization. For example, "persons" created in a laboratory as part of the medical procedure could not be deliberately destroyed.

SHALL THE PROPOSAL BE APPROVED?

FOR THE PROPOSAL - YES
AGAINST THE PROPOSAL - NO

NOTICE is hereby given that as provided in 34 O.S. §§ 8 and 10, any citizen or citizens of the state may file a protest as to the constitutionality of the petition or as to the ballot title, by a written notice to the Supreme Court and to the proponents filing the petition. Proponents filing are: Mr. Daniel P. Skerbitz, P.O. Box 35404, Tulsa, OK 74153; Rep. Mike Reynolds, 2609 S.W. 107th St., Oklahoma City, OK 73170; and Mr. T. Russell Hunter, 2700 Creekview Place, Norman, OK 73071. Any such protest must be filed within ten (10) days after this publication. A copy of the protest shall also be filed with the Secretary of State.

V. Glenn Coffee
Secretary of State
I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OKC-THE OKLAHOMAN, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is hereunto attached, was published in said OKC-THE OKLAHOMAN in consecutive issues on the following dates-to-wit:

Insertion: 03/22/2012

That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE $1,191.40

(Editor, Publisher or Authorized Agent)

SUBSCRIBED and sworn to me this 4 day of April 2012.

(Notary Public)

NOTICE OF THE FILING OF STATE QUESTION NUMBER 761, INITIATIVE PETITION NUMBER 395

NOTICE is hereby given that on March 1, 2012, State Question Number 761, Initiative Petition Number 395 was filed in the Office of the Secretary of State. The petition appears on its face to sufficiently meet the statutory requirements for filing with the Office of the Secretary of State. The Ballot Title, as rewritten by the Attorney General pursuant to state statutes, states:

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V. Glenn Coffee
Secretary of State

RECEIVED
APR 04 2012
OKLAHOMA SECRETARY OF STATE
Proof of Publication - Order Number 12-03-81

I, Cindy Shea, of lawful age, being duly sworn upon oath, deposes and says: That I am the Authorized Agent of OKC-JOURNAL RECORD, a Daily newspaper printed and published in the city of OKLAHOMA CITY, county of Oklahoma, and state of Oklahoma, and that the advertisement referred to, a true and printed copy of which is hereunto attached, was published in said OKC-JOURNAL RECORD in consecutive issues on the following dates:

Insertion: 03/22/2012

That said newspaper has been published continuously and uninterruptedly in said county during a period of one-hundred and four consecutive weeks prior to the publication of the attached notice or advertisement; that it has been admitted to the United States mail as second-class mail matter; that it has a general paid circulation, and publishes news of general interest, and otherwise conforms with all of the statutes of the Oklahoma governing legal publications.

PUBLICATION FEE $67.30

(No signature)

SUBSCRIBED and sworn to me this 4 day of April 2012.

(Notary Public)

NOTICE OF THE FILING OF
STATE QUESTION NUMBER 761,
INITIATIVE PETITION NUMBER 395

NOTICE is hereby given that on March 1, 2012, State Question Number 761, Initiative Petition Number 395 was filed in the Office of the Secretary of State. The petition appears on its face to sufficiently meet the statutory requirements for filing with the Office of the Secretary of State. The Ballot Title, as rewritten by the Attorney General pursuant to state statutes, states:

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AGAINST THE PROPOSAL - NO

NOTICE is hereby given that as provided in 34 O.S. §§ 8 and 10, any citizen or citizens of the state may file a protest as to the constitutionality of the petition or as to the ballot title, by a written notice to the Supreme Court and to the proponents filing the petition. Proponents filing are: Mr. Daniel P. Skerbitz, P.O. Box 35404, Tulsa, OK 74153; Rep. Mike Reynolds, 2609 S.W. 107th St., Oklahoma City, OK 73170; and Mr. T. Russell Hunter, 2700 Creekview Place, Norman, OK 73071. Any such protest must be filed within ten (10) days after this publication. A copy of the protest shall also be filed with the Secretary of State.

V. Glenn Coffee
Secretary of State

RECEIVED
APR 04 2012
OKLAHOMA SECRETARY OF STATE
MOTION TO ASSOCIATE COUNSEL

Pursuant to Okla. Sup. Ct. R. 1.5(a), the protestants, Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., hereby move the Court for an Order permitting Michelle Movahed of the Center for Reproductive Rights, New York, New York, to practice in the above styled and numbered cause pursuant to the rules Creating and Controlling the Oklahoma Bar Association, 5 Okla.Stat. Ch. 1, App.1, Art.2. This Motion is supported by the attached Signed Application (Exhibit A), Certificate of Good Standing (Exhibit B), and the Certificate of Compliance from the Oklahoma Bar Association (Exhibit C), which satisfies the requirements of Article 2 §5.
ATTORNEYS FOR PROTESTANTS
CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of April, 2012, a true and correct copy of the above and foregoing was delivered by United States mail, postage prepaid, to the following:

V. Glenn Coffee
Secretary of State
2300 N. Lincoln Blvd., Ste. 101
Oklahoma City, OK 73105-4897

Daniel P. Skerbitz
P.O. Box 35404
Tulsa, OK 74153

Daniel P. Skerbitz
4942 S. 72nd E. Ave.
Tulsa, OK 74145

Rep. Mike Reynolds
2609 SW 107th St.
Oklahoma City, OK 73170

T. Russell Hunter
2700 Creekview Place
Norman, OK 73071

[Signature]

ANNE E. ZACHRITZ
Exhibit A
APPLICATION

OUT OF STATE ATTORNEY REGISTRATION

Michelle Nicole Movahed, Applicant, respectfully represents:

First Name Middle Name Last Name

1. Applicant is an attorney at law and a member of the law firm of Center for Reproductive Rights

with its principal offices located at 120 Wall Street, 14th Floor

New York, New York NY 10005

Mailing Address

City County State Zip Code

(917) 637-3600 (917) 637-3628 (917) 637-3666

Telephone (Firm) Telephone (Applicant's Direct Dial) Fax (Applicant)

mmovahed@reprorights.org. If Applicant's office address is different from above,

please provide the following:

Mailing Address

City County State Zip Code

2. Applicant is admitted to practice and is a member in good standing (statements attached) of the bar(s) of the highest court(s) of the following state(s):

<table>
<thead>
<tr>
<th>State</th>
<th>Date of Admission</th>
</tr>
</thead>
</table>

3. Applicant is admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or other tribunals on the dates indicated for each, and is presently a member in good standing of the bars of said courts:

<table>
<thead>
<tr>
<th>Tribunal</th>
<th>Date of Admission</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S. District Court for the Northern District of Illinois</td>
<td>October 2007</td>
</tr>
<tr>
<td>U.S. District Court for the Southern District of Illinois</td>
<td>October 2007</td>
</tr>
<tr>
<td>U.S. District Court for the Eastern District of New York</td>
<td>2007</td>
</tr>
<tr>
<td>U.S. Court of Appeals for the Ninth Circuit</td>
<td>12/17/2009</td>
</tr>
</tbody>
</table>
4. Applicant is not currently suspended or disbarred in any court except as hereinafter provided (Give particulars; e.g. court, jurisdiction, date): 

N/A

5. Applicant is not currently subject to any pending disciplinary proceedings by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, date, status):

N/A

6. Applicant has never received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, type of discipline, date, status):

N/A

7. Applicant has never had any certificate or privilege to appear and practice before any regulatory or administrative body suspended or revoked except as hereinafter provided (Give particulars; e.g. administrative body, date, status of suspension or reinstatement):

N/A

8. Applicant seeks admission to practice in the State of Oklahoma in the following matter (give particulars; e.g. caption of case, court or agency, type of matter, party to be represented): Note - A separate application is to be submitted for each matter in which the applicant seeks admission! 

Protest to the constitutionality of Initiative Petition no. 395, State Question no. 761, to be filed as an original action in the Supreme Court of Oklahoma.
9. The Oklahoma Bar Association member who is counsel of record for Applicant in this matter is:

Anne E. Zachritz 15608

First Name Middle Name Last Name A.B.A. Number

100 N. Broadway Ave., Suite 3300, Oklahoma City, OK, 73102-8812.

Mailing Address City State Zip Code

(405) 235-8756, (405) 235-8756, aezachritz@andrewsdavis.com

Telephone Number Fax Number E-mail Address

10. The following accurately represents the names of each party in this matter and the names and addresses of each counsel of record who appear for that party:

<table>
<thead>
<tr>
<th>Party Name</th>
<th>Counsel Name</th>
<th>Address of Counsel</th>
</tr>
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<tbody>
<tr>
<td>Dana Stone, MD</td>
<td>Anne Zachritz</td>
<td>See above</td>
</tr>
<tr>
<td>Eli Reshef, MD</td>
<td>Anne Zachritz</td>
<td>See above</td>
</tr>
<tr>
<td>Larry Burns, DO</td>
<td>Anne Zachritz</td>
<td>See above</td>
</tr>
</tbody>
</table>

SEE ATTACHED FOR COMPLETE LIST OF ADDITIONAL PARTIES

11. Applicant certifies that he/she shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the laws of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association.

12. Applicant understands and shall comply with the standards of professional conduct required of members of the Oklahoma Bar Association.

13. Applicant has disclosed in writing to the client that the Applicant is not admitted to practice in this jurisdiction and the client has consented to such representation.

I, Michelle Movahed, do hereby swear/affirm under penalty of perjury that the assertions of this application are true:
I am the Applicant in the above referenced matter; I have read the foregoing and know the contents thereof; the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to those matters I believe them to be true.

I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association; I understand and shall comply with the standards of professional conduct required by members of the Oklahoma Bar Association; and that I am subject to the disciplinary jurisdiction of the Oklahoma Bar Association with respect to any of my actions occurring in the course of such appearance.

DATED this 26th day of March, 2012

[Signature]

Mail with check or money order (payable to the OBA) to:

Out-of-State Attorney Registration
Oklahoma Bar Association
P.O. Box 53036
Oklahoma City, OK 73152-3036
Addendum to Application of Michelle Movahed for Out of State Attorney Registration

10.

<table>
<thead>
<tr>
<th>Party Name</th>
<th>Counsel Name</th>
<th>Address of Counsel</th>
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<td>See response to 9</td>
</tr>
<tr>
<td>Eli Reshef, MD</td>
<td>Anne Zachritz</td>
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</tr>
<tr>
<td>Larry Burns, DO</td>
<td>Anne Zachritz</td>
<td>See response to 9</td>
</tr>
<tr>
<td>Heather Hall</td>
<td>Anne Zachritz</td>
<td>See response to 9</td>
</tr>
<tr>
<td>Brittany May</td>
<td>Anne Zachritz</td>
<td>See response to 9</td>
</tr>
<tr>
<td>Martha Skeeters, Ph.D.</td>
<td>Anne Zachritz</td>
<td>See response to 9</td>
</tr>
</tbody>
</table>

All parties will also be represented by Martha M. Hardwick, O.B.A. no. 3847, of Hardwick Law Office, P.O. Box 35975, Tulsa, OK 74153.
Telephone: (918) 749-3313
Fax: (918) 742-1819
Email: mh@hardwicklawoffice.com
Exhibit B
Appellate Division of the Supreme Court of the State of New York
First Judicial Department

I, Susanna Rojas, Clerk of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, certify that

MICHELLE NICOLE PALLAK MOVAHED

was duly licensed and admitted to practice as an Attorney and Counsellor at Law in all the courts of the State of New York on December 4, 2007, has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counsellors at Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an attorney and counsellor at law.

In Witness Whereof, I have hereunto set my hand and affixed the seal of this court on

March 26, 2012

[Signature]

Clerk of the Court
Certificate of Admission  
To the Bar of Illinois

I, Carolyn Taft Grosboll, Clerk of the Supreme Court of Illinois, do hereby certify that

Michelle Nicole Pallak Movahed

has been duly licensed and admitted to practice as an Attorney and Counselor of Law within this State; has duly taken the required oath to support the CONSTITUTION OF THE UNITED STATES and of the STATE OF ILLINOIS, and also the oath of office prescribed by law, that said name was entered upon the Roll of Attorneys and Counselors in my office on May 10, 2007 and is in good standing, so far as the records of this office disclose.

In Witness Whereof, I have hereunto placed my hand and affixed the seal of said Supreme Court, at Springfield, in said State, this Friday, March 23, 2012.

[Signature]
Clerk

Michelle Nicole Pallak Movahed is currently registered as an inactive attorney pursuant to Supreme Court Rule 756(a)(5), and “shall no longer be eligible to practice law” or hold herself out as being authorized to practice law in Illinois except as provided by Supreme Court Rule 756(j).
Exhibit C
Certificate of Compliance
Oklahoma Bar Association
1901 North Lincoln Boulevard
Post Office Box 53036
Oklahoma City, Oklahoma 73152-3036

The Oklahoma Bar Association, in response to the application of out-of-state attorney, submits the following certificate pursuant to 5 O.S. Ch.1 App.1, Art. II.

1. Applicant has submitted a signed application of out-of-state attorneys, certificate(s) of good standing, and the non-refundable application fee pursuant to the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. Ch. 1, App. 1, Art. II.

2. Date of Application: March 27, 2012

3. Application Number: 2012-136

4. Applying Attorney: Michelle Nicole Movahed
   Center for Reproductive Rights, Inc.
   120 Wall Street, 14th Floor
   New York, New York 10005

5. The Application was: GRANTED

Dated this 27th day of March, 2012.

Gina L. Hendryx, General Counsel
Oklahoma Bar Association

Form 400C.
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

MOTION TO ASSOCIATE COUNSEL

Pursuant to Okla. Sup. Ct. R. 1.5(a), the protestants, Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., hereby move the Court for an Order permitting David Brown of the Center for Reproductive Rights, New York, New York, to practice in the above styled and numbered cause pursuant to the rules Creating and Controlling the Oklahoma Bar Association, 5 Okla.Stat. Ch. 1, App.1, Art.2. This Motion is supported by the attached Signed Application (Exhibit A), Certificate of Good Standing (Exhibit B), and the Certificate of Compliance from the Oklahoma Bar Association (Exhibit C), which satisfies the requirements of Article 2 §5.

Respectfully submitted,

Anne E. Zachritz, OBA No. 15608
Chelsea C. Smith, OBA No. 30728
ANDREWS DAVIS
A PROFESSIONAL CORPORATION
ATTORNEYS AND COUNSELLORS AT LAW
100 N. Broadway, Suite 3300
Oklahoma City, OK 73102-8812
Telephone: (405) 272-9241
Fax: (405) 235-8786
Email: aezachritz@andrewsdavis.com
Email: ccsmith@andrewsdavis.com

and
CERTIFICATE OF SERVICE

I hereby certify that on the 4th day of April, 2012, a true and correct copy of the above and foregoing was delivered by United States mail, postage prepaid, to the following:

V. Glenn Coffee
Secretary of State
2300 N. Lincoln Blvd., Ste. 101
Oklahoma City, OK 73105-4897

Daniel P. Skerbitz
P.O. Box 35404
Tulsa, OK 74153

Daniel P. Skerbitz
4942 S. 72nd E. Ave.
Tulsa, OK 74145

Rep. Mike Reynolds
2609 SW 107th St.
Oklahoma City, OK 73170

T. Russell Hunter
2700 Creekview Place
Norman, OK 73071

ANNE E. ZACHRITZ
Exhibit A
APPLICATION

OUT OF STATE ATTORNEY REGISTRATION

David Patrick Brown, Applicant, respectfully represents:

1. Applicant is an attorney at law and a member of the law firm of Center for Reproductive Rights with its principal offices located at 120 Wall Street, 14th Floor

   New York, New York NY 10005

   (917) 637-3600, (917) 637-3653, (917) 637-3666

   dbrown@reprorights.org. If Applicant's office address is different from above, please provide the following:

2. Applicant is admitted to practice and is a member in good standing (statements attached) of the bar(s) of the highest court(s) of the following state(s):

   State of New York 6/11/2010

3. Applicant is admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or other tribunals on the dates indicated for each, and is presently a member in good standing of the bars of said courts:

   U.S. Court of Appeals for the Second Circuit 2010
4. Applicant is not currently suspended or disbarred in any court except as hereinafter provided (Give particulars; e.g. court, jurisdiction, date): ________________

   N/A

5. Applicant is not currently subject to any pending disciplinary proceedings by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, date, status): ________________

   N/A

6. Applicant has never received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, type of discipline, date, status): ________________

   N/A

7. Applicant has never had any certificate or privilege to appear and practice before any regulatory or administrative body suspended or revoked except as hereinafter provided (Give particulars; e.g. administrative body, date, status of suspension or reinstatement):

   N/A

8. Applicant seeks admission to practice in the State of Oklahoma in the following matter (give particulars; e.g. caption of case, court or agency, type of matter, party to be represented): Note - A separate application is to be submitted for each matter in which the applicant seeks admission! Protest to the constitutionality of Initiative Petition no. 395, State Question no. 761, to be filed as an original action in the Supreme Court of Oklahoma.

   ________________________________

   ________________________________

   ________________________________
9. The Oklahoma Bar Association member who is counsel of record for Applicant in this matter is:

Anne E. Zachritz 15608
First Name Middle Name Last Name O.B.A. Number

100 N. Broadway Ave., Suite 3300 , Oklahoma City, OK , 73102-8812.
Mailing Address City State Zip Code

(405) 235-8756 (405) 235-8756 ( ) aezachritz@andrewsdavis.com
Telephone Number Fax Number E-mail Address

10. The following accurately represents the names of each party in this matter and the names and addresses of each counsel of record who appear for that party:

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<td>Larry Burns, DO</td>
<td>Anne Zachritz</td>
<td>See above</td>
</tr>
</tbody>
</table>

SEE ATTACHED FOR COMPLETE LIST OF ADDITIONAL PARTIES

11. Applicant certifies that he/she shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the laws of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association.

12. Applicant understands and shall comply with the standards of professional conduct required of members of the Oklahoma Bar Association.

13. Applicant has disclosed in writing to the client that the Applicant is not admitted to practice in this jurisdiction and the client has consented to such representation.

I, [Signature] David Brown, do hereby swear/affirm under penalty of perjury that the assertions of this application are true:
I am the Applicant in the above referenced matter; I have read the foregoing and know the contents thereof; the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to those matters I believe them to be true.

I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association; I understand and shall comply with the standards of professional conduct required by members of the Oklahoma Bar Association; and that I am subject to the disciplinary jurisdiction of the Oklahoma Bar Association with respect to any of my actions occurring in the course of such appearance.

DATED this 26th day of March, 2012.

Applicant

Mail with check or money order (payable to the OBA) to:

Out-of-State Attorney Registration
Oklahoma Bar Association
P.O. Box 53036
Oklahoma City, OK 73152-3036

Form 100B
Addendum to Application of David Brown for Out of State Attorney Registration

10.

<table>
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<tr>
<td>Larry Burns, DO</td>
<td>Anne Zachritz</td>
<td>See response to 9</td>
</tr>
<tr>
<td>Heather Hall</td>
<td>Anne Zachritz</td>
<td>See response to 9</td>
</tr>
<tr>
<td>Brittany May</td>
<td>Anne Zachritz</td>
<td>See response to 9</td>
</tr>
<tr>
<td>Martha Skeeters, Ph.D.</td>
<td>Anne Zachritz</td>
<td>See response to 9</td>
</tr>
</tbody>
</table>

All parties will also be represented by Martha M. Hardwick, O.B.A. no. 3847, of Hardwick Law Office, P.O. Box 35975, Tulsa, OK 74153.
Telephone: (918) 749-3313
Fax: (918) 742-1819
Email: mh@hardwicklawoffice.com
Exhibit B
Appellate Division of the Supreme Court
of the State of New York
First Judicial Department

I, Susanna Rojas, Clerk of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, certify that

DAVID P. BROWN

was duly licensed and admitted to practice as an Attorney and Counsellor at Law in all the courts of the State of New York on June 11, 2010, has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counsellors at Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an attorney and counsellor at law.

In Witness Whereof, I have hereunto set my hand and affixed the seal of this court on

March 26, 2012

[Signature]

Clerk of the Court
Exhibit C
Certificate of Compliance
Oklahoma Bar Association
1901 North Lincoln Boulevard
Post Office Box 53036
Oklahoma City, Oklahoma 73152-3036

The Oklahoma Bar Association, in response to the application of out-of-state attorney, submits the following certificate pursuant to 5 O.S. Ch.1 App.1, Art. II

1. Applicant has submitted a signed application of out-of-state attorneys, certificate(s) of good standing, and the non-refundable application fee pursuant to the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. Ch. 1, App. 1, Art. II.

2. Date of Application: March 27, 2012

3. Application Number: 2012-135

4. Applying Attorney: David Patrick Brown
   Center for Reproductive Rights, Inc.
   120 Wall Street, 14th Floor
   New York, New York 10005

5. The Application was: GRANTED

Dated this 27th day of March, 2012.

Gina L. Hendryx, General Counsel
Oklahoma Bar Association

Form 400C
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: INITIATIVE PETITION No. 395 )
STATE QUESTION No. 761 ) No. 110,545

ORDER


DONE BY ORDER OF THE SUPREME COURT this 12th day of April, 2012.

CHIEF JUSTICE

RECEIVED
APR 13 2012
OKLAHOMA SECRETARY
OF STATE
In re: INITIATIVE PETITION No. 395  
STATE QUESTION No. 761  

ORDER


DONE BY ORDER OF THE SUPREME COURT this 12th day of April, 2012.

[Signature]
CHIEF JUSTICE

RECEIVED
APR 13 2012
OKLAHOMA SECRETARY OF STATE
IN THE OKLAHOMA SUPREME COURT
STATE OF OKLAHOMA

In re: )
Protest to Initiative Petition 395, )
State Question 761 )
Case No. 110545

MOTION TO ASSOCIATE COUNSEL

Plaintiffs, Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., hereby move the Court for an Order permitting Talcott Camp to practice in the above styled and numbered cause pursuant to the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. Ch. 1, App.1, Art. II. This motion is supported by the attached “Signed Application” (Exhibit A), “Certificate(s) of Good Standing (Exhibit B), and the “Certificate of Compliance” from the Oklahoma Bar Association (Exhibit C).

Submitted by:

Ryan Kiesel, OBA No. 21254
ACLU of Oklahoma Foundation
3000 Paseo Drive
Oklahoma City, OK 73103
Tel. (405) 525-3831
APPLICATION

APPLICATION OUT OF STATE ATTORNEY REGISTRATION

Susan Talcott Camp, Applicant, respectfully represents:

1. Applicant is an attorney at law and a member of the law firm of: American Civil Liberties Union Foundation with its principal offices located at 125 Broad St., FL 17, New York City, New York, NY, 10004.

   City: New York City
   County: New York
   State: NY
   Zip Code: 10004

   Telephone (Firm): (212) 549-2651
   Telephone (Applicant): (212) 549-2632
   Fax (Applicant): (212) 549-2652

   E-mail Address (Applicant): tcamp aclu.org

   If Applicant’s office address is different from above, please provide the following: N/A

   mailing Address

   City: 
   County: 
   State: 
   Zip Code: 

2. Applicant is admitted to practice and is a member in good standing (statements attached) of the bar(s) of the highest court(s) of the following state(s):

   State: New York
   Date of Admission: May 22, 1995

   State: New Jersey
   Date of Admission: June 29, 1995

3. Applicant is admitted to practice before the following United States District Courts, United States Circuit Courts of Appeal, the Supreme Court of the United States, and/or other tribunals on the dates indicated for each, and is presently a member in good standing of the bars of said courts:

   Tribunal: U.S. District Court for the District of New Jersey
   Date of Admission: March 1, 1996

   Tribunal: U.S. District Court for the Southern District of New York
   Date of Admission: July 10, 1997

   Tribunal: U.S. District Court for the Eastern District of Michigan
   Date of Admission: March 2, 2000

   Tribunal: U.S. District Court for the District of Colorado
   Date of Admission: May 25, 2000

   Tribunal: U.S. Courts of Appeals for the First
   Date of Admission: January 26, 2000

   Tribunal: U.S. Courts of Appeals for the Second Circuit
   Date of Admission: September 14, 2004

   Tribunal: U.S. Courts of Appeals for the Third Circuit
   Date of Admission: February 8, 1999
4. Applicant is not currently suspended or disbarred in any court except as hereinafter provided (Give particulars; e.g. court, jurisdiction, date): N/A

5. Applicant is not currently subject to any pending disciplinary proceedings by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, date, status): N/A

6. Applicant has never received public discipline including, but not limited to, suspension or disbarment, by any organization with authority to discipline attorneys at law except as hereinafter provided (Give particulars; e.g. court, discipline authority, type of discipline, date, status): N/A

7. Applicant has never had any certificate or privilege to appear and practice before any regulatory or administrative body suspended or revoked except as hereinafter provided (Give particulars; e.g. administrative body, date, status of suspension or reinstatement): N/A

8. Applicant seeks admission to practice in the State of Oklahoma in the following matter (give particulars; e.g. caption of case, court or agency, type of matter, party to be represented): Note - A separate application is to be submitted for each matter in which the applicant seeks admission!

This is a protest filed in the Oklahoma Supreme Court challenging Initiative Petition No. 395, State Question No. 761. I will represent the plaintiffs in this case: Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D.
9. The Oklahoma Bar Association member who is counsel of record for Applicant in this matter is:

<table>
<thead>
<tr>
<th>First Name</th>
<th>Middle Name</th>
<th>Last Name</th>
<th>O.B.A. Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ryan</td>
<td>Dean</td>
<td>Kiesel</td>
<td>21254</td>
</tr>
</tbody>
</table>

Address: 3000 Paseo Drive, Oklahoma City, OK, 73103

Telephone Number: (405) 525-3831, Fax Number: (405) 524-2296, E-mail Address: ryanaclu@gmail.com

10. The following accurately represents the names of each party in this matter and the names and addresses of each counsel of record who appear for that party:

<table>
<thead>
<tr>
<th>Party Name</th>
<th>Counsel Name</th>
<th>Address of Counsel</th>
</tr>
</thead>
<tbody>
<tr>
<td>Plaintiffs:</td>
<td>Plaintiffs’ Counsel:</td>
<td>A PROFESSIONAL CORP. ATTORNEYS AND COUNSELLORS AT LAW</td>
</tr>
</tbody>
</table>
| Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D. | Anne E. Zachritz, OBA No. 15608 | 100 N. Broadway, Ste. 3300
                                  | Chelsea C. Smith, OBA No. 30728 | Oklahoma City, OK 73102-8812 |
|                  | Martha M. Hardwick               | HARDWICK LAW OFFICE P.O. Box 35975 tulsa, OK 74153-0975 |
|                  | OBA No. 3847                     | CENTER FOR REPRODUCTIVE RIGHTS 120 Wall St., 14th Floor New York, NY 10005-3904 |
|                  | Michelle Movahed*                | CENTER FOR REPRODUCTIVE RIGHTS 120 Wall St., 14th Floor New York, NY 10005-3904 |
|                  | New York Bar Registration No. 4552063 | CENTER FOR REPRODUCTIVE RIGHTS 120 Wall St., 14th Floor New York, NY 10005-3904 |
|                  | Illinois Bar No. 62918636        | CENTER FOR REPRODUCTIVE RIGHTS 120 Wall St., 14th Floor New York, NY 10005-3904 |
|                  | David Brown*                     | CENTER FOR REPRODUCTIVE RIGHTS 120 Wall St., 14th Floor New York, NY 10005-3904 |
|                  | New York Bar Registration No. 4863544 | CENTER FOR REPRODUCTIVE RIGHTS 120 Wall St., 14th Floor New York, NY 10005-3904 |
| Initiative Sponsors: | Ryan D. Kiesel               | ACLU OF OKLAHOMA FOUNDATION 3000 Paseo Dr. Oklahoma City, OK 73103 |
| Daniel P. Skerbitz |                                  |                                                        |
| P.O. Box 35404     |                                  |                                                        |
| Tulsa, OK 74153    |                                  |                                                        |
| Rep. Mike Reynolds |                                  |                                                        |
| 2609 SW 107th St.  |                                  |                                                        |
| Oklahoma City, OK 73170 |                                  |                                                        |
| T. Russell Hunter  |                                  |                                                        |
| 2700 Creekview Place |                                  |                                                        |
| Norman, OK 73071   |                                  |                                                        |
11. Applicant certifies that he/she shall be subject to the jurisdiction of the courts and disciplinary boards of this state with respect to the laws of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association.

12. Applicant understands and shall comply with the standards of professional conduct required of members of the Oklahoma Bar Association.

13. Applicant has disclosed in writing to the client that the Applicant is not admitted to practice in this jurisdiction and the client has consented to such representation.

I, Susan Talcott Camp, do hereby swear/affirm under penalty of perjury that the assertions of this application are true:

I am the Applicant in the above referenced matter; I have read the foregoing and know the contents thereof; the same is true of my own knowledge except as to those matters therein stated on information and belief, and as to those matters I believe them to be true.

I further certify that I am subject to the jurisdiction of the Courts and disciplinary boards of this state with respect to the law of this state governing the conduct of attorneys to the same extent as a member of the Oklahoma Bar Association; I understand and shall comply with the standards of professional conduct required by members of the Oklahoma Bar Association; and that I am subject to the disciplinary jurisdiction of the Oklahoma Bar Association with respect to any of my actions occurring in the course of such appearance.

DATED this 2nd day of April, 2012.

[Signature]
Applicant
Appellate Division of the Supreme Court
of the State of New York
First Judicial Department

I, Susanna Rojas, Clerk of the Appellate Division of the Supreme Court of the State of New York, First Judicial Department, certify that

SUSAN TALCOTT CAMP

was duly licensed and admitted to practice as an Attorney and Counsellor at Law in all the courts of the State of New York on May 22, 1995, has duly taken and subscribed the oath of office prescribed by law, has been enrolled in the Roll of Attorneys and Counsellors at Law on file in my office, has duly registered with the administrative office of the courts, and according to the records of this court is in good standing as an attorney and counsellor at law.

In Witness Whereof, I have hereunto set my hand and affixed the seal of this court on

March 26, 2012

Clerk of the Court
Certificate of Good Standing

This is to certify that SUSAN TALCOTT CAMP (No. 057061994) was constituted and appointed an Attorney at Law of New Jersey on June 29, 1995 and, as such, has been admitted to practice before the Supreme Court and all other courts of this State as an Attorney at Law, according to its laws, rules, and customs.

I further certify that as of this date, the above-named is an Attorney at Law in Good Standing. For the purpose of this Certificate, an attorney is in “Good Standing” if the Court’s records reflect that the attorney: 1) is current with all assessments imposed as a part of the filing of the annual Attorney Registration Statement, including, but not limited to, all obligations to the New Jersey Lawyers’ Fund for Client Protection; 2) is not suspended or disbarred from the practice of law; 3) has not resigned from the Bar of this State; and 4) has not been transferred to Disability Inactive status pursuant to Rule 1:20-12.

Please note that this Certificate does not constitute confirmation of an attorney’s satisfaction of the administrative requirements of Rule 1:21-1(a) for eligibility to practice law in this State.

In testimony whereof, I have hereunto set my hand and affixed the Seal of the Supreme Court, at Trenton, this 30th day of March, 2012.

Mark V.anc
Clerk of the Supreme Court
Certificate of Compliance
Oklahoma Bar Association
1901 North Lincoln Boulevard
Post Office Box 53036
Oklahoma City, Oklahoma 73152-3036

The Oklahoma Bar Association, in response to the application of out-of-state attorney, submits the following certificate pursuant to 5 O.S. Ch.1 App.1, Art. II

1. Applicant has submitted a signed application of out-of-state attorneys, certificate(s) of good standing, and the non-refundable application fee pursuant to the Rules Creating and Controlling the Oklahoma Bar Association, 5 O.S. Ch. 1, App. 1, Art. II.

2. Date of Application: April 5, 2012

3. Application Number: 2012-155

4. Applying Attorney: Susan Talcott Camp
   American Civil Liberties Union Foundation
   125 Broad Street, 17th Floor
   New York, New York 10004

5. The Application was: GRANTED

Dated this 9th day of April, 2012.

Gina L. Hendryx, General Counsel
Oklahoma Bar Association

Form 400C
CERTIFICATE OF SERVICE

I hereby certify that on this the 12th day of April, 2012, a true and correct copy of the above and foregoing Response was placed in the U.S. Mail, first-class postage prepaid, addressed to:

Mr. Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Rep. Mike Reynolds  
2609 SW 107th Street  
Oklahoma City, OK 73170

Mr. T. Russell Hunter  
2700 Creekview Place  
Norman, OK 73071

Glenn Coffee  
Secretary of State  
Office of the Secretary of State  
2300 N. Lincoln Blvd., Room 101  
Oklahoma City, OK 73105-4897

Ryan D. Kiesel
In re: INITIATIVE PETITION No. 395 ) No. 110,545
STATE QUESTION No. 761 )

ORDER


DONE BY ORDER OF THE SUPREME COURT this 16th day of April, 2012.

[Signature]
CHIEF JUSTICE

RECEIVED
APR 17 2012
OKLAHOMA SECRETARY
OF STATE
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: INITIATIVE PETITION NO. 395

) Case No. 110545

STATE QUESTION NO. 761

ENTRY OF APPEARANCE

The undersigned attorney hereby appears as counsel for Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., the Protestants in this case.


Respectfully submitted,

Michelle Movahed
New York Bar Registration No. 4552063
Illinois Bar No. 62918636
CENTER FOR REPRODUCTIVE RIGHTS
120 Wall St., 14th Floor
New York, NY 10005-3904
Phone: (917) 637-3600
Fax: (917) 637-3666
Email: mmovahed@reprorights.org

ATTORNEY FOR PROTESTANTS
CERTIFICATE OF MAILING TO PARTIES

This is to certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, this 13th day of April, 2012, to:

Mr. Daniel P. Skerbitz  
P.O. Box 35404  
Tulsa, OK 74153

Mr. Daniel P. Skerbitz  
4942 S. 72nd E. Ave.  
Tulsa, OK 74145

Rep. Mike Reynolds  
2609 SW 107th St.  
Oklahoma City, OK 73170

Mr. T. Russell Hunter  
2700 Creekview Place  
Norman, OK 73071

V. Glenn Coffee  
Secretary of State  
2300 N. Lincoln Blvd., Ste. 101  
Oklahoma City, OK 73105-4897

Michelle Movahed
In re: INITIATIVE PETITION No. 395 )

STATE QUESTION No. 761 )

) No. 110,545

ORDER


DONE BY ORDER OF THE SUPREME COURT this 12th day of April, 2012.

[Signature]

CHIEF JUSTICE
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: )
INITIATIVE PETITION NO. 395 ) Case No. 110545 )
STATE QUESTION NO. 761 )

ENTRY OF APPEARANCE

The undersigned attorney hereby appears as counsel for Brittany Mays Barber, Larry Burns, D.O., Heather Hall, Eli Reshef, M.D., Martha Skeeters, Ph.D., and Dana Stone, M.D., the Protestants in this case.


Respectfully submitted,

______________________________
David Brown

New York Bar Registration No. 4863544
CENTER FOR REPRODUCTIVE RIGHTS
120 Wall St., 14th Floor
New York, NY 10005-3904
Phone: (917) 637-3600
Fax: (917) 637-3666
Email: dbrown@reprorights.org

ATTORNEY FOR PROTESTANTS
CERTIFICATE OF MAILING TO PARTIES

This is to certify that a true and correct copy of the above and foregoing was mailed, postage prepaid, this 13th day of April, 2012, to:

Mr. Daniel P. Skerbitz
P.O. Box 35404
Tulsa, OK 74153

Mr. Daniel P. Skerbitz
4942 S. 72nd E. Ave.
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Rep. Mike Reynolds
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Mr. T. Russell Hunter
2700 Creekview Place
Norman, OK 73071

V. Glenn Coffee
Secretary of State
2300 N. Lincoln Blvd., Ste. 101
Oklahoma City, OK 73105-4897

David Brown
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA:

In re: INITIATIVE PETITION No. 395 )
STATE QUESTION No. 761 )
No. 110,545 )

ORDER


DONE BY ORDER OF THE SUPREME COURT this 12th day of April, 2012.

[Signature]
CHIEF JUSTICE
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: INITIATIVE PETITION NO. 395 STATE QUESTION NO. 761

PROTESTANTS’ BRIEF

Anne E. Zachritz, OBA No. 15608 Chelsea C. Smith, OBA No. 30728
ANDREWS DAVIS A PROFESSIONAL CORPORATION ATTORNEYS AND COUNSELLORS AT LAW
100 N. Broadway, Ste. 3300 Oklahoma City, OK 73102-8812
Phone: (405) 272-9241 Fax: (405) 235-8786
Email: aezachritz@andrewsdavis.com ccsmith@andrewsdavis.com

Martha M. Hardwick
OBA No. 3847
HARDWICK LAW OFFICE
P.O. Box 35975 Tulsa, OK 74153-0975
Phone: (918) 749-3313 Fax: (918) 742-1819
Email: mh@hardwicklawoffice.com

Ryan D. Kiesel
OBA No. 21254
ACLU OF OKLAHOMA FOUNDATION
3000 Paseo Dr. Oklahoma City, OK 73103
Phone: (405) 524-8511
Email: rkiesel@acluok.org

Michelle Movahed*
David Brown*
CENTER FOR REPRODUCTIVE RIGHTS
120 Wall St., 14th Fl. New York, NY 10005-3904
Phone: (917) 637-3600 Fax: (917) 637-3666
Email: mmovahed@reprorights.org dbrown@reprorights.org
*Out-of-State Attorney

Susan Talcott Camp*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad St. New York, NY 10004
Phone: (212) 549-2632 Email: tcamp@aclu.org
*Out-of-State Attorney

ATTORNEYS FOR PROTESTANTS

RECEIVED
APR 2 3 2012
OKLAHOMA SECRETARY OF STATE
IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

In re: INITIATIVE PETITION NO. 395
STATE QUESTION NO. 761

PROTESTANTS' BRIEF

Anne E. Zachritz, OBA No. 15608
Chelsea C. Smith, OBA No. 30728
ANDREWS DAVIS
A PROFESSIONAL CORPORATION
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Michelle Movahed*
David Brown*
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Susan Talcott Camp*
AMERICAN CIVIL LIBERTIES UNION FOUNDATION
125 Broad St.
New York, NY 10004
Phone: (212) 549-2632
Email: tcamp@aclu.org

*Out-of-State Attorney

ATTORNEYS FOR PROTESTANTS
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<td>3</td>
</tr>
<tr>
<td>OKLA. CONST. art. I § 1</td>
<td>3</td>
</tr>
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</table>
B. IP 395 Violates the Single-Subject Rule Established by Article 24, Section 1 of the Oklahoma Constitution

City of Cleburne v. Cleburne Living Ctr., 473 U.S. 432 (1985)

In re Initiative Petition No. 314, 1980 OK 174, 625 P.2d 595

In re Initiative Petition No. 342, 1990 OK 76, 797 P.2d 332

In re Initiative Petition No. 360, 1994 OK 97, 879 P.2d 810

In re Initiative Petition No. 382, 2006 OK 45, 142 P.3d 400


C. IP 395's "Simple Statement of the Gist of Proposition" is Statutorily Insufficient

In re Initiative Petition No. 342, 1990 OK 76, 797 P.2d 332

In re Initiative Petition No. 344, 1990 OK 75, 797 P.2d 326

In re Initiative Petition No. 384, 2007 OK 48, 164 P.3d 125

IV. Conclusion

OKLA. CONST. art. II § 2

OKLA. CONST. art. II § 7

OKLA. CONST. art. 24 § 1

OKLA. STAT. tit. 34, § 3

CO.
Protestants respectfully submit this brief in support of their request that the Court declare Initiative Petition No. 395 ("IP 395") unconstitutional, insufficient as a matter of law, and invalid for all purposes.

I. Preliminary Statement

Twenty years ago, activists opposed to legal abortion attempted to use Oklahoma’s initiative process to ban abortion, in direct and purposeful violation of the federal Constitution. *In re Initiative Petition No. 349*, 1992 OK 122, ¶¶ 1-2, 838 P.2d 1, 2-3. This Court rejected that attempt, declaring the petition invalid. *Id.* In the decades since, the federal Constitution’s core protection for women’s reproductive autonomy has been repeatedly affirmed by courts throughout the nation, including the U.S. Supreme Court. IP 395’s ban on abortion is even more extreme than the abortion ban proposed—and rejected—twenty years ago. But that is only the tip of the iceberg; the amendment proposed by IP 395 would interfere even more broadly with women’s decisions about procreation by banning the use of common contraceptives as well as restricting physicians’ ability to provide fertility treatments such as *in vitro* fertilization and treat ectopic pregnancies, other high-risk pregnancies, and miscarriages. In so doing, it would strike at the “very heart” of the cluster of choices protected by the guarantee of liberty in the Due Process Clause of the Constitution of the United States.

As it did twenty years ago, this Court should declare the initiative petition invalid for all purposes because it is contrary to the federal Constitution. In addition, this Court should declare the initiative petition invalid because it violates the single-subject rule and lacks a statutorily sufficient “statement of the gist.”
II. Summary of the Record

IP 395 was filed with the Secretary of State on March 1, 2012. See App. A. It seeks to amend the Oklahoma Constitution in two ways: (1) by defining “person” for purposes of Art. II, § 2, of the Constitution to include fertilized eggs and conferring due process rights on each “person” so defined, and (2) by expanding the bases for equal protection of the laws under Art. II, § 7, of the Oklahoma Constitution to include age, place of residence, and medical condition. *Id.* The ballot title submitted with the petition was identical to the “statement of the gist” of the petition. *Id.* The Attorney General reviewed the ballot title for compliance with applicable laws and found that it was legally insufficient because it did not define “beginning of biological development,” a crucial term used in the proposed constitutional amendment; failed to explain the real world effects of the amendment on medical procedures and contraception; defined “person” more broadly than the amendment; and reflected partiality in its composition. See App. B. The Attorney General issued a rewritten ballot title on March 16, 2012. See App. C. As rewritten, the ballot title explains, among other things, that IP 395 “defines ‘person’ as any human being from ... fertilization”; “vests state constitutional inherent rights, including rights to equal protection regardless of age, place of residence or medical condition and due process rights to ‘persons’”; that it “generally prohibits abortion”; “would prohibit contraception methods that result in termination of a ‘person’”; and, finally, “would affect, but not prohibit, medical procedures such as *in vitro* fertilization.” *Id.* The Attorney General did not rewrite the “statement of the gist.” *Id.*

The effects of IP 395 on reproductive health care would be broad and far-reaching. In addition to banning abortion, banning common contraceptive methods, and restricting
physicians' ability to provide fertility treatments to couples trying to conceive, IP 395 would dramatically restrict physicians' ability to provide care for women with life-threatening conditions that can arise during pregnancy and would curtail the way that physicians could treat women experiencing ectopic pregnancy and miscarriage. See App. D at ¶¶ 13-21.

III. Argument and Authorities

A. The Amendment Proposed by IP 395 Violates the Federal Constitution.

The U.S. and Oklahoma Constitutions compel adherence to the Supreme Court's interpretation of federal law, and the “limited role” of state courts considering such issues is to “apply federal constitutional law, not to make it or guess what it might become.” *Initiative Petition No. 349, 1992 OK 122, ¶ 13, 838 P.2d at 7; see U.S. Const. art. VI, cl. 2; Okla. Const. art. I, § 1.* Recognizing that it is thus “doubly bound,” this Court has clearly and unequivocally affirmed its commitment to “uphold the law of the land whatever it may be.” *Initiative Petition No. 349, 1992 OK 122, ¶¶ 13-14, 838 P.2d at 8.* Where, as here, an initiative would plainly violate the federal Constitution, it cannot appear on the ballot; its only effect would be to cause “a costly, fruitless, and useless election [to] take place.” *Id,* 838 P.2d at 12.

Later cases have clarified that this right extends beyond married couples, see *Eisenstadt v. Baird*, 405 U.S. 438, 453 (1972) (holding that the right to privacy protects single persons no less than married persons), and beyond contraception, see *Roe v. Wade*, 410 U.S. 113, 152-53 (1973) (relying on *Griswold* to articulate women’s right to abortion); *Moore v. City of E. Cleveland*, 431 U.S. 494, 503-06 (1977) (relying on *Griswold* to invalidate a zoning law restricting family members who may co-habit); *Lawrence v. Texas*, 539 U.S. 558, 564-67 (2003) (relying on *Griswold* to hold that same-sex couples have the right to engage in intimate “conduct without intervention of the government”). *Griswold* and its progeny thus establish a sphere of decisional autonomy that places personal decisions about family, childbearing, and intimate relationships beyond the reach of the state. See *Lawrence*, 539 U.S. at 564-67, 573-74. Hence, “[i]f the right of privacy means anything, it is the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear or beget a child.” *Douglas v. Dobbs*, 419 F.3d 1097, 1102 (10th Cir. 2005) (quoting *Eisenstadt*, 405 U.S. at 453).

By banning abortion, banning common contraceptive methods, restricting physicians’ ability to provide fertility treatments such as *in vitro* fertilization, and restricting physicians’ ability to treat ectopic pregnancies, other high-risk pregnancies, and miscarriages, IP 395 would amend the Oklahoma Constitution to work exactly the kind of unwarranted governmental intrusion that the U.S. Supreme Court has forbidden. Indeed, it would strip Oklahoma women of their “ability . . . to participate equally in the economic and social life of the Nation[, which] has been facilitated by their ability to control their reproductive lives.” *Casey*, 505 U.S. at 856.
In particular, the amendment proposed by IP 395 would ban abortion in all circumstances, forcing every pregnant woman in Oklahoma to carry to term, regardless of her individual circumstances, medical needs, or wishes. See App. C. That effect is “diametrically opposed” to federal constitutional law, which clearly precludes the use of Oklahoma’s ballot initiative process to prevent a woman from making “a private decision to obtain an abortion.” Initiative Petition No. 349, 1992 OK 122, ¶¶ 11, 15, 838 P.2d at 6, 7. In the twenty years since this Court decided Initiative Petition No. 349, the federal courts have repeatedly reaffirmed the federal constitutional protection for a woman’s right to terminate a previability pregnancy. See, e.g., Lawrence, 539 U.S. at 565 (reaffirming that “Roe recognized the right of a woman to make certain fundamental decisions affecting her destiny”); Stenberg v. Carhart, 530 U.S. 914, 920-21 (2000). Thus, today, as in 1992, “the law of the land is that a woman has a constitutionally protected right to make an independent choice to continue or terminate a pregnancy before viability.” Initiative Petition No. 349, 1992 OK 122, ¶ 14, 838 P.2d at 7. Accordingly, IP 395 would amend the Oklahoma Constitution to be in direct and inescapable conflict with the federal Constitution.

1 Indeed, in Stenberg, the Court explained:

We understand the controversial nature of the problem. Millions of Americans believe that life begins at conception and consequently that an abortion is akin to causing the death of an innocent child; they recoil at the thought of a law that would permit it. Other millions fear that a law that forbids abortion would condemn many American women to lives that lack dignity, depriving them of equal liberty and leading those with the least resources to undergo illegal abortions with the attendant risks of death and suffering. Taking account of these virtually irreconcilable points of view, aware that constitutional law must govern a society whose different members sincerely hold directly opposing views, and considering the matter in light of the Constitution’s guarantees of fundamental individual liberty, this Court, in the course of a generation, has determined and then redetermined that the Constitution offers basic protection to the woman’s right to choose.

Stenberg, 530 U.S. 920-21.
That by itself makes IP 395 unconstitutional, but IP 395 would also violate the federal Constitution by banning the most common forms of contraception. In explaining the sphere of decisional autonomy protected by the federal constitutional right to privacy, the U.S. Supreme Court held that “in a field that by definition concerns the most intimate of human activities and relationships, decisions whether to accomplish or to prevent conception are among the most private and sensitive.” Carey, 431 U.S. at 685; accord Skinner v. Oklahoma, 316 U.S. 535, 536 (1942); Eisenstadt, 405 U.S. at 453. IP 395 would ban those forms of contraception, from intrauterine devices (IUDs) to hormonal birth control, whose possible mechanisms of action include preventing the implantation of a fertilized egg, as the Attorney General acknowledged. See App. C; see also App. D. ¶¶ 8-12. In this way, too, the amendment proposed by IP 395 would put the Oklahoma Constitution in direct conflict with the U.S. Constitution.

Further, IP 395 would restrict physicians’ ability to provide fertility treatments that enable women to exercise their constitutionally protected choice to become pregnant. See Skinner, 316 U.S. at 536 (recognizing “the right to have offspring” as “a sensitive and important area of human rights”); see also Washington v. Glucksberg, 521 U.S. 702, 726 (1997) (affirming that the liberty interest protected by the federal Due Process Clause encompasses a right to procreate); Lifchez v. Hartigan, 735 F. Supp. 1361, 1377 (N.D. Ill. 1990) (“It takes no great leap of logic to see that within the cluster of constitutionally protected choices that includes the right to have access to contraceptives, there must be included ... the right to submit to a medical procedure that may bring about, rather than prevent, pregnancy.”); Cameron v. Bd. of Educ., 795 F. Supp. 228, 237 (S.D. Ohio 1991) (recognizing that the Constitutional privacy right includes a right to become pregnant
through, for example, artificial insemination); *accord* Carey, 431 U.S. at 685. IP 395 would amend the Oklahoma Constitution to restrict physicians’ ability to provide fertility treatments, such as *in vitro* fertilization, that inevitably involve destruction of at least some fertilized eggs or embryos. *See* App. C; App. E ¶¶ 11-13. Here, too, IP 395 would put the Oklahoma Constitution at odds with the U.S. Constitution.

Finally, IP 395 would restrict the ability of physicians to treat women with ectopic pregnancies, other high-risk pregnancies, and miscarriages. *See* App. D ¶¶ 13-21. In so doing, it would place the lives and health of pregnant women in jeopardy in clear violation of the U.S. Constitution. *See* Stenberg, 530 U.S. at 921; *Casey*, 505 U.S. at 879; *Roe*, 410 U.S. at 164-65.

This Court should therefore prevent IP 395 from reaching the ballot. As the Court observed in 1992, Oklahomans have a “constitutional right[]” to protect the “Oklahoma Constitution” against attempts to make it “repugnant to the Constitution which we all share as Americans.” *Initiative Petition No. 349*, 1992 OK 122, ¶ 26, 838 P.2d at 10. Among other things, IP 395 would fundamentally violate the intent of the framers of the Oklahoma Constitution, who “were careful to frame a constitution which was in harmony with the constitution written by the founding fathers” of this country. *Id.* IP 395 seeks to undo the choices made by the Oklahoma Constitution’s framers and to pit the state against the federal Constitution. It must not be allowed to do so.

**B. IP 395 Violates the Single-Subject Rule Established by Article 24, Section 1 of the Oklahoma Constitution.**

Under Article 24, § 1, of the Oklahoma Constitution, “[n]o proposal for the amendment or alteration of this Constitution which is submitted to the voters shall embrace more than one general subject.” *See, e.g., In re Initiative Petition No. 360*, 1994 OK 97, ¶
18, 879 P.2d 810, 816 (holding that Art. 24, § 1, applies to initiatives). IP 395 violates this “single-subject” rule by addressing at least two general subjects. First, the measure would define “person” for purposes of Art. II, § 2, of the Constitution to include a fertilized egg and confer due process rights on each “person” as so defined. Second, the amendment would expand the bases for equal protection of the laws under Art. II, § 7, of the Oklahoma Constitution to include age, place of residence, and medical condition.2

In applying the single-subject rule, this Court has “examine[d] the inherent nature of the provisions to determine whether they are subjects which are separate and independent from each other so that each could stand alone, or fall as a whole, leaving the constitutional scheme harmonious and independent on that subject.” In re Initiative Petition No. 314, 1980 OK 174, ¶ 75, 625 P.2d 595, 607. In so doing, the Court considers whether the proposed constitutional amendment offends one of the purposes underlying the single-subject rule, which are (1) to prevent deceit of the voters; and (2) to prevent “logrolling,” the practice of assuring the passage of a law by forcing a voter to approve an undesired provision to secure passage of a desired one, or conversely, forcing a voter to vote against a desired provision to ensure that an undesired provision is not enacted. See id. ¶ 59, 625 P.2d at 602; see also In re Initiative Petition No. 342, 1990 OK 76, ¶ 4, 797 P.2d at 332; In re Initiative Petition No. 382, 2006 OK 45, ¶ 8, 142 P.3d 400, 405. If a voter could reasonably be in favor of one of an initiative’s provisions while being against another, then the initiative fails the single-

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2 Under current law, the equal protection guarantees of the Oklahoma Constitution are coextensive with those of its federal counterpart. See, e.g., Presley v. Bd. of Cnty. Comm’rs of Okla. Cnty., 1999 OK 45, ¶ 8, 981 P.2d 309, 312. The U.S. Supreme Court has never recognized place of residence as a suspect class, and has expressly held that age and disability are not suspect classes. See City of Cleburne, Tex. v. Cleburne Living Ctr., 473 U.S. 432, 445-46 (1985) (holding that disability is not a suspect class); Mass. Bd. of Retirement v. Murgia, 427 U.S. 307, 313-14 (1976) (holding that age is not a suspect class).
subject rule; “Voters should not have to adopt measures of which they really disapprove in order to embrace propositions that they favor.” Initiative Petition No. 342, 1990 OK 76, ¶ 10, 797 P.2d at 333.

Here, IP 395 embodies multiple subjects, putting voters in a quandary. Voters who, for example, support extending the equal protection guarantee to include classifications based on age, place of residence and medical condition might well oppose granting rights to fertilized eggs, or vice versa. Or voters who might support expanding equal protection of laws to prevent discrimination based on medical condition might oppose expanding those guarantees based on age or place of residence, or vice versa. Voters are faced with the exact all-or-nothing-choice that the single-subject rule forbids. Cf. id.; In re Initiative Petition No. 382, 2006 OK 45 ¶¶ 4, 15 142 P.3d 403-04, 408. As a result, the Oklahoma Constitution forecloses IP 395 from appearing on the ballot.

C. IP 395’s “Simple Statement of the Gist of the Proposition” is Statutorily Insufficient.

The “simple statement of the gist of the proposition” appearing on the top margin of each signature sheet of IP 395 is misleading and fails to provide adequate notice about the changes in law proposed by that petition. Accordingly, it falls far short of the requirements of 34 Okla. Stat. § 3. A “statement of the gist” should “at least put [potential signatories] on notice of the changes being made” so that citizens considering the petition can make an informed choice. In re Initiative Petition No. 384, 2007 OK 48, ¶ 7, 164 P.3d 125, 129. To provide adequate notice, the gist must explain the petition’s effects in practical terms. Id. ¶¶ 7-8, 164 P.3d at 129. Therefore, a statement of the gist is legally insufficient when it is incomplete, uninformative, deceptive, or misleading. Id. at ¶¶ 8-9, 164 P.3d at 129.
For example, this Court recently held that a proposed initiative was invalid because the statement of the gist was incomplete and failed to provide notice of several of its key effects. *Initiative Petition No. 384*, 2007 OK 48, ¶ 4, 164 P.3d at 128. Specifically, while the measure proposed by that initiative would have required school districts to spend 65% of their “operational expenses” on classroom instruction and directed the legislature to establish sanctions for non-complying districts, along with standards for waiving them, the statement of the gist completely neglected to mention some of those effects and failed to define “operational expenses.” *Initiative Petition No. 384*, 2007 OK 48, ¶ 5, 164 P.3d at 127, 129-30. Accordingly, the Court held that the statement of the gist was legally insufficient. *Id.* ¶ 13, 164 P.3d at 130.

Similarly, in *Initiative Petition No. 342*, the Court found that the statement of the gist was legally insufficient because it listed only a few of the many effects of the proposed changes to the state Constitution. 1990 OK 76, ¶¶ 11-15, 797 P.2d at 333-34.; *see also In re Initiative Petition No. 344*, 1990 OK 75, ¶¶ 12-16, 797 P.2d at 330 (stating that petition to replace an article of the Constitution establishing executive branch did not adequately inform potential signatories that its effect would be to increase the power of the Governor).

The statement of the gist in IP 395 is legally insufficient under these well-established standards. It fails to put potential signatories on notice of the radical changes that IP 395 would make to existing law in at least four ways. First, the statement of the gist fails to explain that the practical effect of the measure would be to ban abortion. *Compare App. A with App. C.* Additionally, by banning the use of common contraceptive methods and restricting the use of fertility treatments, *see App. C*, IP 395 would interfere with women’s right to decide whether and when to conceive. The statement of the gist says nothing about
these crucial real-world effects of IP 395 and is therefore invalid. See App. A; Initiative Petition No. 384, 2007 OK 48, ¶¶ 11-12, 164 P.3d at 129-30; Initiative Petition No. 342, 1990 OK 76, ¶¶ 11-15, 797 P.2d at 333-34.

Second, the statement of the gist is misleading. For example, as the Attorney General determined, the assertion that the proposed amendment “reconcile[s] recent scientific developments with the definition of a human being for the purpose of equal protection under the law” reflects “partiality.” App. B. This “partiality” is misleading because the statement suggests, inappropriately and without evidence, that the measure is based on scientific research. Similarly, the statement claims the amendment “expands the legal definition of humanity or ‘personhood.’” App. A. In fact, IP 395 redefines neither “humanity” nor “personhood;” rather, it would define “person” under the Inherent Rights Clause, and grant due process and equal protection rights to “person[s].” Id. Because this language does not correctly explain the proposed amendments to the Oklahoma Constitution, it cannot put potential signatories on notice of them. See Initiative Petition No. 342, 1990 OK 76, ¶ 14, 797 P.2d at 333-34; Initiative Petition No. 344, 1990 OK 75, ¶ 15, 797 P.2d at 330.

Third, the statement of the gist is incomplete. For example, it inaccurately claims that the amendment “prohibits the intentional killing of any such ‘person’ without due process of law.” App. A. This implies that the amendment would affect only intentional killing. However, the measure’s application is not limited to killing or to intentional acts; rather, it would grant “persons” all the protections of the Inherent Rights Clause. Id. Because the statement discloses only one effect of the amendment, without disclosing others, it does not alert potential signatories as to what the proposal would do. See Initiative Petition No. 384, 2007 OK 48, ¶¶ 11-12, 164 P.3d at 129-30; Initiative Petition No. 342, 1990 OK 76, ¶ 11-
Similarly, the statement misstates the amendment’s standards for equal protection of the law. Although the amendment secures equal protection regardless of “age, place of residence, or medical condition,” the statement of the gist claims it would prohibit discrimination on the bases of “place of residence, race, gender, age, disability, health, level of function, condition of dependency, or method of reproduction.” App. A.

Fourth, the statement of the gist is not informative. It uses the vague and confusing phrase “beginning of the biological development,” which the Attorney General found unclear in the proponents’ original ballot title. See App. B. This term remains unexplained in the statement of the gist, and the rewritten ballot title only highlights how important an explanation of this term is. Without it, the statement of the gist cannot put potential signatories on notice of the amendment’s actual effects. See Initiative Petition No. 384, 2007 OK 48, ¶ 11, 164 P.3d at 129-130.

IV. Conclusion

For the foregoing reasons, IP 395 (1) would amend the Oklahoma Constitution to be in direct conflict with the federal Constitution; (2) would violate the single-subject rule of the Oklahoma Constitution; and (3) contains a statutorily insufficient “statement of the gist.” Therefore, Protestants respectfully request that this Court declare it unconstitutional, insufficient as a matter of law, and invalid for all purposes.
Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of April, 2012, a true and correct copy of the foregoing Protestants’ Brief, together with the Appendix thereto, was sent via certified mail, postage prepaid, to the following persons at the addresses indicated:

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ANNE E. ZACHRITZ
ORDER

1. Upon consideration of the Protestants' challenge to the legal sufficiency of Initiative Petition No. 395 which proposes to amend the Oklahoma Constitution in the above styled and numbered cause, THE COURT FINDS:

   1. The people of Oklahoma have reserved to themselves "the power to propose laws and amendments to the Constitution." Okla. Const. art. 5, § 1.

   2. The proposals, however, are subject to the constitutional limitation that "such changes be not repugnant to the Constitution of the United States." Okla. Const. art. 2, § 1.

   3. Therefore, "[a] pre-submission determination of the constitutionality of [an] initiative petition is appropriate and necessary where the proposal is facially unconstitutional and is justified when a costly and futile election may be avoided." In re Initiative Petition No. 349, State Question 642, 1992 OK 122, ¶ 16, 838 P.2d 1, 8. In 2009, the Oklahoma Legislature codified that holding. A protest to the legal sufficiency of an initiative petition must now be heard by this Court in advance of a challenge to the numerical sufficiency of the initiative petition. See Okla. Stat. tit. 34, § 8 (2011).

   4. The United States Supreme Court has spoken on this issue. The measure is clearly unconstitutional pursuant to Planned Parenthood v. Casey, 505 U.S. 833 (1992). The states are duty bound to follow its interpretation of the law. Twenty years ago, this Court was
presented with an initiative which facially conflicted with the Casey decision. This Court held: "The issue of the constitutionality of the initiative petition is governed by the United States Supreme Court’s pronouncement in Casey."

5. The only course available to this Court is to follow what the United States Supreme Court, the final arbiter of the United States Constitution has decreed. In re Initiative Petition 349, 1992 OK 122, ¶ 8, 838 P.2d 1, 5.

6. The mandate of Casey is as binding on this Court today as it was twenty years ago. Initiative Petition No. 395 conflicts with Casey and is void on its face and it is hereby ordered stricken.

¶2 IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED, that Initiative Petition No. 395 is void on its face and it is hereby ordered stricken.

DONE BY ORDER OF THE SUPREME COURT IN CONFERENCE this 30th day of April, 2012.

[Signature]
CHIEF JUSTICE