

WHEN MISREPRESENTATION BECOMES DECEPTIVE: ANALYZING PETITION-SIGNER INADVERTENCE POST-CAMPBELL

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ABSTRACT

In 2010, the Alaska supreme court held that a legally deficient petition summary of a ballot initiative could be corrected and put on the ballot without being recirculated for signatures. The Parental Involvement Initiative at the root of the litigation would prohibit doctors from performing abortions for unemancipated minor women who had not provided notice to or obtained consent from a parent. After the petition was circulated for signatures, the supreme court determined that omissions of fact in the petition summary rendered the summary inaccurate and therefore deficient. However, the court refused to require that the initiative sponsors recirculate the petition with a corrected summary upon a determination that the deficient summary was unlikely to have led to petition-signer inadvertence. This Comment critiques the supreme court's analysis of petition-signer inadvertence and proposes a more robust standard that advances the policy goals the court has considered when evaluating ballot initiatives.

I. INTRODUCTION

In *Planned Parenthood v. Campbell*,¹ the Alaska supreme court considered whether supporters of a defective petition summary must recirculate it before a cured version is placed on the ballot.² Upon a challenge that the petition summary was defective, the supreme court

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1. 232 P.3d 725(Alaska 2010).

2. *Id.* at 727. The petition summary, "The Parental Involvement Initiative: An act relating to parental involvement for a minor's abortion," (PNI) would prohibit doctors from performing abortions for unemancipated minor women who had not provided notice to or obtained consent from a parent.

held that it was not necessary to correct and recirculate the petition because petition-signer inadvertence was unlikely or minimal.³ However, the supreme court failed to engage in a clear analysis of petition-signer inadvertence.

The Comment addresses that failure and argues that courts should apply a standard that ensures petition signatures accurately reflect public opinion and are not the result of misleading petitions. Part II details the case history of *Campbell*. Part III discusses the policy reasons for analyzing deficient petition summaries through petition-signer inadvertence by examining previous cases before the supreme court. Part IV develops a standard that courts ought to apply in determining whether petition-signer inadvertence occurs and argues that the supreme court incorrectly determined that the petition summary in *Campbell* did not need to be recirculated.

II. FACTUAL BACKGROUND

In *Campbell*, the court sought to resolve whether a deficient petition summary could be cured for a ballot summary without its sponsors circulating new petitions and gathering new signatures.⁴ The petition sponsors submitted “The Parental Involvement Initiative: An Act relating to parental involvement for a minor’s abortion” (PNI) to the lieutenant governor.⁵ The PNI would prohibit doctors from performing abortions for unemancipated minor women who had not provided notice to or obtained consent from a parent.⁶

The PNI was proposed as an amendment to the Parental Consent Act (PCA), a similar statute requiring parental consent or judicial authorization before a doctor performed an abortion on a unmarried or emancipated woman who was under the age of 17.⁷ The PCA was invalidated for violating the minor’s right to privacy under the Alaska constitution because it was not the least restrictive means available to accomplish the state’s legitimate interest in “protecting the health of the minor and in fostering family involvement in a minor’s decision regarding her pregnancy.”⁸

When the petition sponsors submitted the PNI, the lieutenant governor certified the application, and the Division of Elections prepared

3. *Id.*

4. *Id.*

5. *Id.*

6. *Id.*

7. *Id.*

8. *Id.* at 728.

the necessary materials for signature-gathering.⁹ Planned Parenthood of Alaska filed suit in the superior court against the lieutenant governor, alleging that he had violated both the statutory and constitutional law of Alaska by “certifying the application and adopting a defective summary.”¹⁰ Planned Parenthood claimed that the PNI was “incomprehensible and would mislead voters” and that the summary was not impartial or accurate as required by law.¹¹

Reviewing Planned Parenthood’s claims, the superior court held that the PNI was not clearly unconstitutional but was not impartial or accurate due to the omission of three key facts.¹² First, the summary omitted the fact that the PNI would restrict current law because current law does not require parental notification for a minor to get an abortion.¹³ Second, the summary failed to disclose that the PNI was modifying the PCA by requiring parental notification.¹⁴ Finally, the PNI omitted the fact that the initiative would implicate other laws that make it a criminal offense when a physician knowingly violates the notification requirements for giving the minor’s parents notice of the minor’s plan to have an abortion.¹⁵ The superior court held that if the omitted facts were included in a revised summary for the ballot, the initiative could be placed on the ballot.¹⁶ Planned Parenthood appealed, arguing that the summary could not be corrected for the ballot without recirculating a revised summary and gathering new signatures.¹⁷

Practically, correcting and recirculating a new summary would have allowed signers to reconsider their endorsement of the initiative with a clearer explanation of the initiative. Thus, it would have been possible that the initiative would not have gotten enough signatures to be placed on the ballot at all. In contrast, correcting the summary for the ballot would not allow for this reconsideration. Rather, it would guarantee that the summary ended up on the ballot despite the fact that a clearer summary may have led signers to change their minds.

The supreme court reviewed the superior court’s decision de novo and would only invalidate the summary if it was not impartial and accurate.¹⁸ The mere fact that a better summary could be written was not

9. *Id.* at 727.

10. *Id.* at 727–28.

11. *Id.* at 728.

12. *Id.*

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.*

18. *Id.*

enough to invalidate the summary as it stood.¹⁹ The supreme court concluded that when dealing with initiative petitions that have been “circulated with a defective summary,” a court is required to consider the nature and degree of the omission or misleading statement to determine the “likelihood and extent of petition-signer inadvertence,” the hardship that would result from the invalidation to the sponsors, and the hardship that would come to the opponents from permitting the initiative to move forward.²⁰ The supreme court then concluded that petition-signer inadvertence “was unlikely or minimal in this case.”²¹ Therefore, the supreme court found that it was not necessary to correct and recirculate the petition, provided that the omissions were corrected before the summary was placed on the ballot.²²

In his opinion concurring-in-part, dissenting-in-part, Justice Winfree disagreed with the majority, noting that the inaccuracy of the petition summary violated the screening function of the signature requirement because it was impossible to know whether the initiative would have had support if it had been presented correctly.²³ He noted that although the hardship involved in circulating a new petition is great, not requiring this recirculation would lessen incentives for creating impartial petition summaries.²⁴ Also, it would change the screening standard from what is currently a bright-line rule to be dependent on the independent views of judges.²⁵ Therefore, he argued that the initiative should not be included on the ballot and a new, accurate and impartial petition should be circulated.²⁶

III. PETITION-SIGNER INADVERTENCE IN THE SUPREME COURT

This section will provide an overview of the cases that have discussed the policy goals of avoiding petition-signer inadvertence before discussing how the *Campbell* court applied these cases to its analysis. In analyzing the PNI, the supreme court relied upon severance cases, cases where the proposed initiative impermissibly combines two subjects and violates the one-subject rule, in formulating a rule for petition-signer inadvertence.²⁷ Planned Parenthood argued against the applicability of these cases in analyzing the PNI, but the supreme court found sufficient

19. *Id.*

20. *Id.* at 734.

21. *Id.*

22. *Id.*

23. *Id.* at 736 (Winfree, J., concurring in part and dissenting in part).

24. *Id.* at 739.

25. *Id.*

26. *Id.*

27. *Id.* at 732–33 (majority order).

similarities to make the severance cases instructive to petition-signer inadvertence.²⁸ In both situations, proponents of the initiatives gathered signatures on petitions that did not exactly represent the initiative.²⁹ In both situations, it is necessary to determine whether the petitions have served their “screening purpose” sufficiently to allow the initiative to go on the ballot without requiring the recirculation of the petition.³⁰ Therefore, examining severance cases decided by the supreme court is necessary to determine the standard for petition-signer inadvertence applied in *Campbell*.

A. *Suber v. Alaska State Bond Committee*

The Alaska constitution stipulates that “[e]very bill shall be confined to one subject.”³¹ In *Suber v. Alaska State Bond Committee*,³² the supreme court determined a chapter of a special session contained only one subject when it imposed both obligations on the State Commissioner of Commerce regarding homeowner relief following an earthquake and criminal sanctions for noncompliance.³³ Emphasizing that the purpose underlying the one-subject provision is to prevent logrolling, “inadvertence, stealth, and fraud in legislation,” the court noted that, when construing a contested provision, it would “disregard mere verbal inaccuracies, resolve doubts in favor of validity, and hold that in order to warrant the setting aside of enactments for failure to comply, the violation must be substantial and plain.”³⁴ Accordingly, the court reasoned that because the purpose of the criminal sanctions provision was to ensure compliance with the homeowner relief provision, the sanctions provision was sufficiently germane to the subject matter of the legislation for it to adhere to the one-subject rule.³⁵ The standards set out in *Suber* for determining inadvertence are helpful in determining whether the court in *Campbell* properly held that petition-signer inadvertence was unlikely.

B. *Meyer v. Alaskans for Better Elections*

The supreme court’s analysis of a one-subject rule challenge to an

28. *Id.*

29. *Id.* at 733.

30. *Id.* (quoting *Faipeas v. Municipality of Anchorage*, 860 P.2d 1214, 1219 (Alaska 1993)).

31. ALASKA CONST. art. IX, § 8.

32. 414 P.2d 546 (Alaska 1966).

33. *Id.* at 549, 557.

34. *Id.* at 557.

35. *Id.*

initiative in *Meyer v. Alaskans for Better Elections*³⁶ clarifies the policy goals of the one-subject rule and reflects the general tendency in one-subject cases to permit subjects that fall under a single broad category.³⁷ In *Meyer*, the court determined that an initiative that would make three discrete substantive changes to election law was permissible when the three changes fell under one general subject. The court noted among other considerations, that there was “no transparent attempt to garner voter support through completely unrelated provisions.”³⁸ The court clarified that the test was not discreteness or severability; rather, there must be a factual and logical nexus between the different issues.³⁹ Thus, the policy underlying the one-subject rule was empowering voters, because allowing them to vote on different issues separately would lead to a more precise expression of their will.⁴⁰ This policy informs the goal of avoiding petition-signer inadvertence as well, as petition-signer inadvertence could prevent a precise expression of a signer’s will.

C. *Citizens for Implementing Medical Marijuana v. Municipality of Anchorage*

The court reiterated a focus on voter empowerment in *Citizens for Implementing Medical Marijuana v. Municipality of Anchorage*,⁴¹ where the supreme court held that the clerk properly denied a petition that was “confusing and misleading and therefore legally insufficient.”⁴² The petition was unclear whether it would create or abolish rights relating to the use of medical marijuana. Therefore, signers had to infer the effects of the petition.⁴³ The court, noting the principle of informed lawmaking that underlies all petition requirements,⁴⁴ held that the lack of context

36. 465 P.3d 477 (Alaska 2020).

37. *E.g.*, *Croft v. Parnell*, 236 P.3d 369, 372-73 (Alaska 2010) (explaining that the court tends to interpret the one-subject rule broadly in order to balance the purposes of the rule with legislative efficiency).

38. *Meyer*, 464 P.3d at 498.

39. *Id.* at 492.

40. *See id.* at 498 (citing *Croft*, 236 P.2d at 372) (in the initiative context the one-subject rule, “protects the voters’ ability to effectively exercise their right to vote by requiring that different proposals be voted on separately,” “allows voters to express their will through their votes more precisely,” and “prevents logrolling, stealth, and fraud.”).

41. 119P.3d 898 (Alaska 2006).

42. *Id.* at 899.

43. *Id.* at 903.

44. *Id.* The court in *Citizens for Implementing Medical Marijuana* was referring to the decision in *Faipeas*, which noted that there is a “vital public interest in ensuring that laws be made by informed lawmakers.” Decision-makers should have a thorough understanding of all sides of an issue so that they can make a reasoned and rational decision. The court noted that this understanding requires

surrounding the medical marijuana petition was legally insufficient because signers “could not know with sufficient certainty what they were endorsing.”⁴⁵ The holding in *Medical Marijuana* suggests that inadvertence also occurs when a voter could not know, without having to draw inferences from the surrounding context, the effect of a petition when endorsing it.

D. *Faipeas v. Municipality of Anchorage*

Similarly, the policy surrounding the non-allowance of a deficient petition summary centers on the importance of an informed electorate. For example, in *Faipeas v. Municipality of Anchorage*,⁴⁶ Citizens Against the Homosexual Ordinance filed a petition for a referendum on an ordinance that prohibited discrimination based on sexual orientation for public employment.⁴⁷ Opponents of the ordinance appealed the clerk’s certification of the petition, seeking a stay of the election pending the final decision of their appeal.⁴⁸ Granting the stay, the supreme court found that the ordinance was misleading because it could be interpreted by proponents as adding sexual orientation to the list of characteristics protected from discrimination in public employment, or by opponents as giving special rights to homosexuals.⁴⁹ The court explained that the signature-gathering requirement to submit a referendum ensures that a bill has sufficient public support before being placed on the ballot.⁵⁰ A petition that mischaracterizes the ordinance thwarts the intended screening function of the signature-gathering requirement.⁵¹ The court noted that having a properly informed electorate is “a basic requirement for good governing decisions – ones which properly balance the interests of those involved and create desirable results.”⁵² Therefore, referendum and initiative petitions must meet minimum standards of accuracy and fairness to satisfy the public interest in informed lawmaking to prevent inadvertence by petition-signers and voters.⁵³

complete and accurate information. *Faipeas v. Municipality of Anchorage*, 860 P.2d 1214, 1221 (Alaska 1993).

45. *Citizens for Implementing Medical Marijuana*, 129 P.3d at 903.

46. 860 P.2d 1214 (Alaska 1993).

47. *Id.* at 1215.

48. *Id.*

49. *Id.* at 1217.

50. *Id.* at 1219–20.

51. *Id.* at 1220.

52. *Id.* at 1221.

53. *Id.*

IV. CREATING A STANDARD FOR EVALUATING PETITION-SIGNER INADVERTENCE

A. The Need for a Workable Standard

Although the supreme court premised its *Campbell* decision on a determination that petition-signer inadvertence was “unlikely or minimal,” it did not engage with a clear analysis of petition-signer inadvertence.⁵⁴ Where the supreme court has previously tested the sufficiency of petition summaries in the initiative context, it has similarly failed to articulate a clear standard to evaluate inadvertence.⁵⁵ Given the prevalence of legislation by initiative in Alaska, a clear, consistent standard for courts assessing inadvertence is paramount to protect the democratic process.⁵⁶ The supreme court’s discussion of policy goals underlying both the one-subject rule and deficient summaries provides a jumping-off point for how the court handles inadvertence. This section seeks to ascertain the policy goals undergirding petition-signer inadvertence and to crystalize these goals into a workable standard for future application. Both the one-subject rule and the need for fair and accurate summaries empower voters to express preferences in a clear and precise manner.⁵⁷ Courts have analyzed inadvertence in cases involving the one-subject rule literally, centering concerns on the likelihood that a bill containing two distinct subjects would lead to support for one of the provisions falsely indicating support for the other.⁵⁸

The supreme court has focused more on ensuring that summaries allow voters to make decisions based on accurate and impartial information than it has on ensuring summaries are not deceptive.⁵⁹ While the court holds both ballot summaries and petition summaries to the standard of accuracy, the purpose of ballot summaries is to allow voters to make “informed and intelligent” decisions while petition summaries

54. *Planned Parenthood of Alaska v. Campbell*, 232 P.3d 725, 734 (Alaska 2010).

55. *See, e.g., Faipeas*, 860 P.2d at 1221 (noting the necessity of guarding against petition-signer inadvertence but not explaining how to evaluate inadvertence).

56. *See Kodiak Island Borough v. Mahoney*, 71 P.3d 896, 898 (Alaska 2003) (noting that Alaska allows for voter initiatives to encourage direct democracy).

57. *See Croft v. Parnell*, 236 P.3d 369, 372 (Alaska 2010) (explaining that the one-subject rule allows voters a more precise expression of their preferences); *see also Faipeas*, 860 P.2d at 1221 (“The public interest in informed lawmaking requires that referendum and initiative petitions meet minimum standards of accuracy and fairness.”).

58. *See supra* note 40.

59. *Planned Parenthood of Alaska v. Campbell*, 232 P.3d 725, 729 (Alaska 2010).

ensure the measure reflects public support.⁶⁰ The court noted that when petition summaries exclude information that would give petition signers “serious grounds for reflection,” these omissions can render a petition inaccurate.⁶¹ Similarly, “complete and accurate information” in a petition summary is necessary to ensure informed lawmaking.⁶²

The procedural posture of the case in *Campbell* was unique, because the court confronted whether a deficient summary could be cured without recirculation. Before analyzing how to cure a deficient petition summary, the court had concluded that the summary was not complete and accurate.⁶³ Accordingly, the holding that a deficient summary does not always lead to petition-signer inadvertence implies that the standard to determine inadvertence is narrower than completeness.⁶⁴

The supreme court noted in *Medical Marijuana* that the petition process serves to screen out propositions with insufficient public support.⁶⁵ Although the court acknowledged the screening function in *Campbell*, it ignored its own analysis of the importance of legal sufficiency at this stage as applied in *Medical Marijuana*.⁶⁶ There, the court explained, “[s]ignatures on a confusing or misleading petition therefore may or may not indicate support for the measure . . .,” suggesting that the importance of completeness of information directly relates to ensuring petition signatures are an effective proxy for public support.⁶⁷ This concern comports with the idea of inadvertence that the court espoused in the context of the one-subject rule, which indicates petition-signer inadvertence occurs when a deficient summary inhibits petition signers from clearly expressing their preferences.⁶⁸ Accordingly, when considering whether a petition summary contains complete information, courts should do so with an eye to whether a lack of completeness will

60. *Id.* at 730 (citing *Alaskans for Efficient Government, Inc. v. State*, 52 P.3d 732, 735 (Alaska 2002)).

61. *Id.* at 730 (citing *Pebble Ltd. Partnership ex rel. Pebble Mines Corp. v. Parnell*, 215 P.3d 1064, 1082 (Alaska 2009) (quoting *Alaskans for Efficient Government*, 52 P.3d at 736)).

62. *See Faipeas v. Municipality of Anchorage*, 860 P.2d 1214, 1221 (Alaska 1993) (explaining that clarity and honesty in all forms of lawmaking, including “legislative enactments, initiative petitions and even proposed resolutions” is paramount).

63. *Campbell*, 232 P.2d at 730.

64. *See id.* at 734 (noting that while the petition summary was deficient by omission, it was not misleading enough to automatically require recirculation).

65. *Citizens for Implementing Medical Marijuana v. Municipality of Anchorage*, 129 P.3d 898, 901 (Alaska 2006).

66. *See Campbell*, 232 P.2d at 729 (explaining the screening function ensures that initiatives that make it to the ballot have public support, but failing to mention the effect that initiatives without public support on the ballot may have).

67. *Citizens for Implementing Medical Marijuana*, 129 P.3d at 901.

68. *See supra* note 40.

render signatures an insufficient indicator of public support.

The *Campbell* court's application of standards used in the one-subject context to determine whether a deficient petition nevertheless served its screening purpose highlights that the two issues implicate similar policy goals.⁶⁹ In determining that petition-signer inadvertence was unlikely, the supreme court noted that the "omissions did not substantially misrepresent the essential nature of the PNI."⁷⁰ This resembles the language that courts use in determining whether severance can effectively remedy a violation of the one-subject rule, where courts "ask whether omitting the required information from the petition summary substantially changed – or misrepresented – the spirit of the measure."⁷¹

While a cursory glance at this portion of the court's opinion may lead to the conclusion that it articulated a standard, the problem is that it failed to clearly identify the cutoff point at which a summary that is legally deficient can only be remedied by recirculation. The demarcation between an omission that would give voters "serious grounds for reflection" and one that "substantially . . . misrepresented . . . the spirit of the measure" is amorphous at best.⁷² Justice Winfree highlights this issue in his opinion, noting "a petition summary either meets our existing standards or it does not."⁷³ The lack of clarity is problematic because it opens the door to inconsistent application by courts, obscuring the central policy goal of ensuring petition signatures convey public support.⁷⁴

Because the Alaska supreme court carved out a gray area where "a petition summary . . . fall[s] below those existing standards but [can] be excused because it only falls a little bit below those standards" a stricter inquiry is necessary.⁷⁵ An appropriate standard would incorporate the policy that the court articulated in *Medical Marijuana*, asking courts to not only look to whether the omission substantially changed or misrepresented the spirit of the measure, but also the likelihood that a voter's signature would not necessarily convey support for the measure.⁷⁶

69. See *Campbell*, 232 P.2d at 733 (determining that two of the three factors that courts consider in the one-subject rule context can apply in a deficient summary context).

70. *Id.* at 734.

71. *Id.*

72. See *id.* (noting that a deficient summary that would give voters "serious grounds for reflection" does not necessarily substantially misrepresent "the spirit of the measure").

73. *Id.* at 737 (Winfree, J., concurring in part and dissenting in part).

74. See *Citizens for Implementing Medical Marijuana v. Municipality of Anchorage*, 129 P.3d 898, 901-02 (Alaska 2006) (explaining that signatures on misleading petitions may not accurately reflect public support).

75. See *Campbell*, 232 P.2d at 737 (Winfree, J., concurring in part and dissenting in part).

76. See *Citizens for Implementing Medical Marijuana*, 129 P.3d at 901-02

In doing so, courts should consider whether the initiative summary clearly states whether the measure creates or abolishes rights and whether a reasonable voter would have to infer the effect of the proposition.⁷⁷ To that end, in determining petition-signer inadvertence, Alaskan courts ought to examine not only the misrepresentation contained in the petition summary itself, but also the extent to which that misrepresentation would affect voters' ability to understand the effect of the measure.

B. Applying the Standard to *Campbell*

Given the policy goals of the screening function of the petition process explained in *Medical Marijuana*, the court incorrectly determined in *Campbell* that the deficient summary did not need to be recirculated.⁷⁸ The conclusion in *Campbell* underscores how an unworkable standard misleads courts and generates inconsistencies.⁷⁹ Directly applicable to the issue in *Campbell* is the court's determination in *Medical Marijuana* that the proposed initiative was ambiguous about whether it created or restricted rights.⁸⁰ A significant factor for finding the petition legally deficient in *Campbell* was the absence of language clarifying that the proposal would restrict current law.⁸¹ Despite this finding, the court failed to engage in meaningful discussion about whether a reasonable petition signer in Alaska would be sufficiently appraised of the current legal landscape regarding voter laws to be fully aware of the impact of the PNI, or whether she would have to "infer the effect of the proposition from other sources."⁸²

The court similarly concluded that the PNI petition was deficient because it failed to describe that the enforcement mechanism of the proposed initiative would impose criminal liability on doctors

(acknowledging that signatures on a deficient summary may be the result of voter confusion).

77. *See id.* at 903 (noting that a reader of the proposition "would have to infer the effect of the proposition from other sources" because the proposition was ambiguous).

78. *Campbell*, 232 P.3d at 734; *see Citizens for Implementing Medical Marijuana*, 129 P.3d at 901 (explaining that circulating a petition for signatures ensure that measures on the ballot have garnered sufficient public support).

79. *See Campbell*, 232 P.3d at 734 (determining that a legally deficient summary will not always need to be recirculated).

80. *See id.* at 730 (concluding that the petition summary was deficient in part because it omitted that the PNI would restrict current law).

81. *Id.* at 728.

82. *Citizens for Implementing Medical Marijuana*, 129 P.3d at 903; *see Campbell*, 232 P.3d at 734 (explaining that petition-signer inadvertence was unlikely because the deficient summary did not substantially misrepresent the PNI).

performing abortions.⁸³ In dicta, the *Medical Marijuana* court noted that a petition that does not sufficiently describe the scope of a measure could be legally deficient because it could be misleading.⁸⁴ The court should have applied that legal reasoning in *Campbell*. Because felony punishment for doctors was the “primary enforcement mechanism” for the PNI, it was “a main feature of the initiative.”⁸⁵ This omission could mislead voters because it would create “entirely new legal responsibilities” for physicians.⁸⁶ Like in *Medical Marijuana*, a voter’s perception of whether the initiative imposed narrow or broad obligations could influence her vote.⁸⁷ A reasonable voter would be justified in inquiring who bears the burden of enforcement. Because of the potential confusion that could arise from the absence of information on enforcement, the petition could mislead voters.

This analysis best serves the initiative process by prioritizing informed lawmaking.⁸⁸ Because the summary was legally deficient, and that deficiency could lead to petition signers having to infer the effect of the initiative, petition signers “could not know with sufficient certainty what they were endorsing.”⁸⁹ Accordingly, a higher standard for petition-signer inadvertence would best ensure that measures that go on the ballot are endorsed by a knowledgeable public.

83. *Campbell*, 232 P.3d at 730.

84. See *Citizens for Implementing Medical Marijuana*, 129 P.3d at 903 (“Although we do not have to decide the issue here, we note in passing that the text of the proposition might also be misleading in regards to its scope.”).

85. *Campbell*, 232 P.3d at 730.

86. Brief of Cross-Appellees at 16, *Planned Parenthood of Alaska v. Campbell*, 232 P.3d 725 (2010) (Nos. S-13826, S-13835, S-13845).

87. See *Citizens for Implementing Medical Marijuana*, 129 P.3d at 903 (“Because this ambiguity in the text of the initiative might cause voters to sign the petition who would not sign if they perceived the broader possible reading, the text itself is potentially problematic.”).

88. See *id.* at 903 (“The uncertainty created by this lack of context violates the principle of informed lawmaking that underlies all petition requirements.”).

89. *Id.*

VI. CONCLUSION

The supreme court's determination in *Campbell* that a deficient petition summary did not need to be recirculated for signatures created a distinction between summaries that are legally insufficient and ones that are incapable of serving their intended purpose. However, in creating this distinction, the court provided little information on what standards guided its decision in *Campbell*, or how future courts should approach the issue. The policy goals that the supreme court has emphasized in the initiative context are therefore instructive, particularly the importance of ensuring that petition signatures appropriately reflect public support. To ensure that signatures are an effective proxy for public support, Alaskan courts ought to explicitly consider how misrepresentation in petition summaries impact voters' understanding of the measure. Accordingly, while the supreme court erred in *Campbell*, analyzing petition-signer inadvertence with a deliberate focus on the summary's effect on the voters will ensure that informed lawmaking continues to remain central to the initiative process.