

ANNOUNCEMENTS
COLORADO COURT OF APPEALS
July 10, 2008

“Slip opinions” are the opinions as filed by the judges with the clerk. Slip opinions are subject to modification, rehearing, withdrawal, or clerical corrections. A link to any modifications to previously posted opinions will appear in the Petition for Rehearing section of the announcement document the day the changes are announced.

Click on the case number to view published and modified published opinions.

PUBLISHED OPINIONS

Court of Appeals No.: [06CA1795](#)
City and County of Denver District Court No. 99DR590
Honorable J. Stephen Phillips, Judge

In re the Marriage of

Steven W. Newell,

Appellant,

and

Ruth F. Newell,

Appellee.

**ORDERS AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS**

Division V
Opinion by: JUDGE J. JONES
Roy and Graham, JJ., concur

**OPINION PREVIOUSLY ANNOUNCED AS “NOT PUBLISHED PURSUANT TO C.A.R. 35
(f)” ON MARCH 13, 2008, IS NOW SELECTED FOR PUBLICATION**

Court of Appeals No.: [06CA2443](#)
El Paso County District Court No. 04CV2642

Honorable Larry E. Schwartz, Judge

Stacey Luster and Walter Luster, individually and as parents and next friends of Alyssa Luster, a minor,

Plaintiffs-Appellants,

v.

Judith Brinkman, MD, and Colorado Springs Health Partners, P.C.,

Defendants-Appellees.

JUDGMENT AFFIRMED

Division II

Opinion by: JUDGE NIETO*

Taubman and Furman, JJ., concur

Court of Appeals Nos.: [06CA2588](#) & [07CA0305](#)

City and County of Denver District Court No. 03CV7197

Honorable John W. Madden, IV, Judge

Honorable Shelley I. Gilman, Judge

The Bankruptcy Estate of Dan Morris, M.D., by and through Lynn Goodwin, successor in interest, and Lynn Goodwin individually, as successor in interest to the Bankruptcy Estate of Dan Morris, M.D.,

Plaintiffs-Appellants,

v.

COPIC Insurance Company, Inc., a Colorado corporation,

Defendant-Appellee.

JUDGMENT AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division III

Opinion by: JUDGE CASEBOLT

J. Jones and Sternberg*, JJ., concur

Court of Appeals No.: [07CA0410](#)
Boulder County District Court No. 06CV221
Honorable M. Gwyneth Whalen, Judge

Brett Berger and Thunderbird Burgers, LLC,

Plaintiffs-Appellees,

v.

City of Boulder and Boulder City Council,

Defendants-Appellants.

JUDGMENT AFFIRMED

Division III

Opinion by: JUDGE J. JONES
Davidson, C.J., and Casebolt, J., concur

Court of Appeals No.: [07CA0848](#)
Adams County District Court No. 05CV1457
Honorable Thomas R. Ensor, Judge

Lief Adams; Lewis Caricato; Bette Caricato; Lloyd Herren; Elizabeth McGill; James McGill; Suzanne Strickland; Gayeski Capital Equities, LLC, a Colorado limited liability company; Milton W. Fonay Trust; SabaColo, LLC; and Brighton Farms, LLP, a Colorado general partnership,

Plaintiffs-Appellants,

v.

Land Services, Inc., a Colorado corporation; Douglas A. Barnes, individually; and Barnes Family Foundation,

Defendants-Appellees.

JUDGMENT AFFIRMED

Division V

Opinion by: JUDGE VOGT

Graham and Lichtenstein, JJ., concur

Court of Appeals No.: [07CA0956](#)
Moffat County District Court No. 05CV64
Honorable Michael A. O'Hara, III, Judge

Dinosaur Park Investments, L.L.C.,

Plaintiff-Appellant,

v.

Fernando Tello,

Defendant-Appellee.

JUDGMENT AND ORDER REVERSED AND
CASE REMANDED WITH DIRECTIONS

Division III

Opinion by: JUDGE J. JONES

Davidson, C.J., and Casebolt, J., concur

Court of Appeals No.: [07CA0967](#)
City and County of Denver District Court No. 06CV4616
Honorable Robert L. McGahey, Jr., Judge

Kimberly Cork,

Plaintiff-Appellant,

v.

Sentry Insurance and Dairyland Insurance Company,

Defendants-Appellees.

JUDGMENT AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division VI

Opinion by: JUDGE WEBB

Dailey and Román, JJ., concur

Court of Appeals No.: [07CA1033](#)
Jefferson County District Court No. 06JA136
Honorable Brian D. Boatright, Judge

In the Matter of the Petition of C.O.A.,

Petitioner-Appellee,

for the Adoption of G.M.R., Child,

and Concerning M.T.R.-B., Sr.,

Respondent-Appellant.

CASE REMANDED WITH DIRECTIONS

Division II

Opinion by: JUSTICE ROVIRA*

Davidson, C.J., and Ruland*, J., concur

Court of Appeals No.: [07CA1114](#)
Rio Blanco County District Court No. 06CV23
Honorable Denise K. Young, Judge

Hellas Construction, Inc., a foreign corporation,

Plaintiff-Appellant,

v.

Rio Blanco County, Colorado,

Defendant-Appellee.

JUDGMENT REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division IV

Opinion by: JUDGE LOEB

Roy and Carparelli, JJ., concur

Court of Appeals No.: [07CA1224](#)
Routt County District Court No. 05CV174
Honorable Shelley A. Hill, Judge
Honorable Edwin G. Ruland, Judge

Betterview Investments, LLC,
Plaintiff-Appellant,

v.

Public Service Company of Colorado, d/b/a XCEL Energy,
Defendant-Appellee.

JUDGMENT VACATED AND CASE
REMANDED WITH DIRECTIONS

Division VI
Opinion by: JUDGE DAILEY
Webb and Román, JJ., concur

UNPUBLISHED OPINIONS

Court of Appeals Nos.: 00CA1659 & 05CA2044
El Paso County District Court Nos. 95CR4292 & 96CR1162
Honorable Thomas K. Kane, Judge
Honorable Robert L. Lowrey, Judge

The People of the State of Colorado,
Plaintiff-Appellee,

v.

Tommie C. Bradley, Jr.,
Defendant-Appellant.

ORDER AFFIRMED

Division II
Opinion by: JUDGE TAUBMAN
Furman and Bernard, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 05CA0169
Arapahoe County District Court No. 03CR3337
Honorable Thomas C. Levi, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Eloy Torres-Gonzalez,

Defendant-Appellant.

JUDGMENTS AND SENTENCES AFFIRMED IN PART,
VACATED IN PART, AND CASE REMANDED WITH DIRECTIONS

Division III
Opinion by: JUDGE J. JONES
Casebolt and Russel, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 06CA0245
Arapahoe County District Court No. 05CR539
Honorable Timothy L. Fasing, Judge
Honorable James F. Macrum, Jr., Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Eugene Gary Duran,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VI
Opinion by: JUDGE ROMÁN
Dailey and Webb, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals Nos.: 06CA0676
City and County of Denver District Court No. 04CV6971
Honorable R. Michael Mullins, Judge

Dr. Kishan K. Khanna,

Appellant,

v.

Janet Nicholson,

Defendants-Appellee

and

Luann Ott Jilot,

Appellee.

ORDER AFFIRMED AND CASE
REMANDED WITH DIRECTIONS

Division II
Opinion by: JUSTICE ROVIRA*
Rothenberg and Bernard, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 06CA0788
Fremont County District Court No. 05CR302
Honorable Julie G. Marshall, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Larry J. Merrill,

Defendant-Appellant.

JUDGMENT AND SENTENCE AFFIRMED

Division V

Opinion by: JUDGE LICHTENSTEIN
Graham and Criswell*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 06CA0880

La Plata County District Court No. 03CR338

Honorable Jeffrey R. Wilson, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Elbert Edward Wilson,

Defendant-Appellant.

JUDGMENT AND SENTENCE AFFIRMED

Division III

Opinion by: JUDGE RUSSEL
Casebolt and J. Jones, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 06CA1908

Adams County District Court No. 06CV263
Honorable Thomas R. Ensor, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

James Edward Fisher,

Defendant-Appellant.

ORDER VACATED AND CASE
REMANDED WITH DIRECTIONS

Division III
Opinion by: JUDGE RUSSEL
Casebolt and J. Jones, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 06CA2126
Douglas County District Court Nos. 03CV1646 & 04CV783
Honorable Paul A. King, Judge

Steve Bures, Margaret Bures, Mark J. Sawko, and Bridgete Sawko,

Plaintiffs-Appellees,

v.

Garrett L. Farnsworth,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division IV
Opinion by: JUDGE CARPARELLI
Roy and Criswell*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 06CA2298
City and County of Denver District Court No. 05CR3798
Honorable Robert L. McGahey, Jr., Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Osiel Augustine Davis,

Defendant-Appellant.

CASE REMANDED WITH DIRECTIONS

Division IV

Opinion by: JUDGE PLANK*
Loeb and Sternberg*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA0100
Park County District Court No. 04CV161
Honorable Stanley Mayhew, Judge

Hartsel Springs Ranch of Colorado, Inc.,

Plaintiff-Appellee,

v.

Cross Slash Ranch, LLC, Vernon Wagner, Veyon Wagner, James Wagner, Denise Wagner, Brad Severson, and Cecil Hart,

Defendants-Appellants.

JUDGMENT AND ORDER AFFIRMED IN PART,
REVERSED IN PART

Division II

Opinion by: JUDGE CASEBOLT
Davidson, C.J., and J. Jones, J., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA0270
Larimer County District Court No. 06CV840
Honorable Jolene Carman Blair, Judge

Mid-Century Insurance Company,

Plaintiff-Appellant,

v.

Carlos Enriquez; Hubert L. Krug; and ABC Concrete Co., Inc.,

Defendants-Appellees.

JUDGMENT REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division II

Opinion by: JUDGE CARPARELLI
Rothenberg and Bernard, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No. 07CA0370
Montezuma County District Court No. 97CV85
Honorable David L. Dickinson, Judge

Lakeside Ventures, LLC, a Colorado limited liability company,

Plaintiff-Appellant and Cross-Appellee,

v.

Robert McAtee and William Lauer,

Defendants-Appellees and Cross-Appellants,

and

Drew Cleland,

Intervenor-Appellee.

ORDERS AFFIRMED IN PART, VACATED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division VI
Opinion by JUDGE ROMÁN
Dailey and Webb, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA0470
El Paso County District Court No. 02CR2126
Honorable Thomas K. Kane, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Clay David Alexander,

Defendant-Appellant.

ORDER AFFIRMED

Division III
Opinion by: JUDGE CASEBOLT
Russel and J. Jones, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA0518
Eagle County District Court No. 05CV652
Honorable R. Thomas Moorhead, Judge

Neal T. Jones and Virginia Jones,

Plaintiffs-Appellees,

v.

Royal Elk Villas, f/k/a Borders Townhomes Condominium Association,

Defendant-Appellant.

ORDER AFFIRMED AND CASE
REMANDED WITH DIRECTIONS

Division III
Opinion by: JUDGE RUSSEL
Casebolt and J. Jones, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA0685
Grand County District Court No. 06CR12
Honorable Shelley A. Hill, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Micah Lambert,

Defendant-Appellant.

ORDER AFFIRMED IN PART, REVERSED IN PART,
AND CASE REMANDED WITH DIRECTIONS

Division V
Opinion by: JUDGE GRAHAM
Lichtenstein and Criswell*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA0782

Larimer County District Court No. 06PR343
Honorable James H. Hiatt, Judge

In the matter of the Estate of Laveda Lorraine Foster a/k/a Lorraine L. Foster,
Deceased.

Oklahoma Christian University,

Respondent-Appellant,

v.

James Foster,

Petitioner-Appellee

and

Larry King,

Personal Representative-Appellee.

ORDER AFFIRMED

Division I

Opinion by: JUDGE ROTHENBERG
Hawthorne and Terry, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA1081
Fremont County District Court No. 98CR340
Honorable Julie G. Marshall, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

James R. McPherson,

Defendant-Appellant.

ORDER AFFIRMED

Division III
Opinion by: JUDGE CASEBOLT
Russel and J. Jones, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA1461
City and County of Denver District Court No. 04CV3141
Honorable Herbert L. Stern, III, Judge
Honorable John N. McMullen, Judge

P. Richard Chado, Sr.,

Plaintiff-Appellee,

v.

J. Robert Chado,

Defendant-Appellant,

and

B.A.S.C. Partners, Ltd., and B.A.S.C. Family Trust,

Appellants.

CASE REMANDED WITH DIRECTIONS

Division V
Opinion by: JUDGE LICHTENSTEIN
Vogt and Graham, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA1462
Grand County District Court No. 06CV136
Honorable Shelly A. Hill, Judge

Buy Winter Park, Inc.,

Plaintiff-Appellant,

v.

Winter Park Realty, Inc.,

Defendant-Appellee.

JUDGMENT AFFIRMED IN PART, REVERSED IN PART,
APPEAL DISMISSED IN PART, AND CASE REMANDED WITH DIRECTIONS

Division I
Opinion by: JUDGE TERRY
Rothenberg and Hawthorne, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA1489
Crowley County District Court No. 06CV45
Honorable Michael Schiferl, Judge

Shane Burden,

Plaintiff-Appellant,

v.

Timothy Ritter, Elroy Jaramillo, and Amy Costner,

Defendants-Appellees.

JUDGMENT AFFIRMED

Division V
Opinion by: JUDGE GRAHAM
Lichtenstein and Criswell*, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA1938
Industrial Claim Appeals Office of the State of Colorado
WC No. 4-648-370

Stacey Inzinga,

Petitioner,

v.

Industrial Claim Appeals Office of the State of Colorado, Jean Pierre Bleger, and Jean
Pierre Bakery, Inc.,

Respondents.

ORDER SET ASIDE AND CASE
REMANDED WITH DIRECTIONS

Division VI
Opinion by: JUDGE WEBB
Dailey and Román, JJ., concur

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 08CA0309
Adams County District Court Nos. 94CR300 & 94CR612
Honorable C. Vincent Phelps, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Enrique Jaramillo Martinez,

Defendant-Appellant.

ORDER AFFIRMED

Division B
Rothenberg, Casebolt and J. Jones, JJ.
PER CURIAM

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 08CA0380
Industrial Claim Appeals Office of the State of Colorado
DD No. 16574-2007

Christine M. Brock,

Petitioner,

v.

Industrial Claim Appeals Office of the State of Colorado and South Metro Obstetrics &
Gynecology,

Respondents.

ORDER AFFIRMED

Division B
Opinion by: JUDGE LOEB
Hawthorne, J., concurs
Román, J., dissents

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

P E T I T I O N S F O R R E H E A R I N G

Court of Appeals No.: 05CA0931

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Nina B. Rice,

Defendant-Appellant.

Petition for Rehearing DENIED

Court of Appeals No.: [05CA1231](#)

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Rumon A. Robinson,

Defendant-Appellant.

Opinion Modified and
Petition for Rehearing DENIED

Court of Appeals No.: 05CA1558

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Jerrelle A. Smith,

Defendant-Appellant.

Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 05CA2506

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Christian M. Garcia-Amaro,

Defendant-Appellant.

Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 06CA0686

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Ramon Ortiz-Salgado,

Defendant-Appellant.

Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 06CA2305

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Imtiyaz Uddin Seraj,

Defendant-Appellant.

Opinion Modified and
Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: 07CA0497

William Gilmore,

Plaintiff-Appellant,

v.

Colorado Department of Corrections and Sterling Correctional Facility,

Defendants-Appellees.

Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

Court of Appeals No.: [07CA0582](#)

State of Colorado, ex rel. John W. Suthers, Attorney General, and Laura E. Udis,
Administrator, Uniform Consumer Credit Code,

Plaintiffs-Appellees,

v.

Cash Advance and Preferred Cash Loans,

Defendants-Appellants.

Opinion Modified and
Petition for Rehearing DENIED

Court of Appeals No.: 07CA0797

Dharma Residence Trust,

Plaintiff,

v.

James and Martha Hockensmith,

Defendants-Appellants,

and

Hiamovi Trust, J. Michael Fitzpatrick, and Alice M. Fitzpatrick,
Defendants-Appellees.

Petition for Rehearing DENIED

NOT PUBLISHED PURSUANT TO C.A.R. 35(f)

*Sitting by assignment of the Chief Justice under provisions of Colo. Const. art. VI, § 5 (3), and § 24-51-1105, C.R.S. 2007.