

08SA224 (1 HOUR)

Concerning the Application for Water Rights
of Well Augmentation Subdistrict of the
Central Colorado Water Conservancy District
and South Platte Well Users Association in
Adams, Morgan and Weld Counties.

Applicants-Appellants:

Well Augmentation Subdistrict of the Central
Colorado Water Conservancy District and
South Platte Well Users Association,

v.

Opposers-Appellees:

City of Aurora, Bijou Irrigation Company,
Bijou Irrigation District, City of Boulder,
Centennial Water and Sanitation District,
Pawnee Well Users Inc., Cache La Poudre
Water Users Association, Lower Latham
Reservoir Company, New Cache La Poudre
Irrigating Company, City of Black Hawk, City
and County of Denver, Ducommun Business
Trust, City of Sterling, East Cherry Creek
Valley Water and Sanitation, Public Service
Company of Colorado, City of Englewood,
Fort Morgan Reservoir, Jackson Lake
Reservoir, The Farmers Reservoir and
Irrigation Company, United Water and
Sanitation District, City of Greeley, Harmony
Ditch Company, Irrigationists' Association,
Lupton Ditch Co. & Lupton Meadows Ditch
Co., North Poudre Irrigation Company,
Riverside Irrigation District, Riverside
Reservoir & Land Company, South Adams
County Water & Sanitation District, State &
Division Engineers, The Henrylyn Irrigation
District, City of Thornton, Westfarm LLC,
City of Westminster, and Greeley Irrigation
Company,

and

For the Applicant-Appellants:

P. Andrew Jones
David P. Jones
Lind, Lawrence & Ottenhoff LLP

(Filed a Joint Brief)

**For the Opposer/Appellees Public
Service Company of Colorado d/b/a Xcel
Energy, Inc. and East Cherry Creek
Valley Water and Sanitation District:**

Carolyn F. Burr
James M. Noble
Ryley Carlock & Applewhite
and

**For Opposer/Appellees Centennial
Water and Sanitation District and City
of Boulder:**

Veronica A. Sperling
John P. Justus
Buchanan and Sperling, P.C.
and

For Opposer/Appellee City of Thornton:

Margaret Ann Emerich
City Attorney
Dennis A. Hanson
Assistant City Attorney
Thornton City Attorney's Office

(Filed a Joint Brief)

**For Opposer/Appellees Fort Morgan
Reservoir & Irrigation Company and
Jackson Lake Reservoir & Irrigation
Company:**

Cynthia F. Covell
Andrea L. Benson
Alperstein & Covell, P.C.
and

Appellee Pursuant to C.A.R. 1(e):
James Hall, Division Engineer for Water
Division No. 1.

-) **For the Opposer/Appellees Harmony**
-) **Ditch Company and Pawnee Well Users,**
-) **Inc.:**
-) Timothy R. Buchanan
-) Veronica A. Sperling
-) John P. Justus
-) Buchanan and Sperling, P.C.
-) and
-) **For the Opposer/Appellee City and**
-) **County of Denver:**
-) Patricia L. Wells
-) General Counsel
-) Casey S. Funk
-) Daniel J. Arnold
-) Denver Water Board
-)
-) **(Filed a Joint Brief)**
-) **For the Opposer/Appellee City of**
-) **Sterling:**
-) David F. Jankowski
-) Sarah A. Klahn
-) Alan E. Curtis
-) White & Jankowski, LLP
-) and
-) **For the Opposer/Appellee City of**
-) **Greeley:**
-) Douglas M. Sinor
-) Trout, Raley, Montano, Witwer &
-) Freeman, P.C.
-) and
-) **For the Opposer/Appellee South Adams**
-) **County Water & Sanitation District:**
-) Richard J. Mehren
-) Moses, Wittemyer, Harrison and
-) Woodruff, P.C.
-) and
-) **For the Opposer/Appellee Henrylyn**
-) **Irrigation District:**
-) Steven L. Janssen
-)
-) **For the Opposer/Appellees State and**
-) **Division Engineers & the Appellee**
-) **pursuant to C.A.R. 1(e):**
-) John W. Suthers
-) Attorney General
-) Paul Benington
-) Assistant Attorney General

)
) **(Entry of Appearance Only)**
) **For the Opposer/Appellee City of Black**
) **Hawk:**
) David L. Kueter
) Sheela Stack
Harvey W. Curtis & Associates

Appeal from the District Court, Water Division No. 1, 03CW99
Docketed: June 30, 2008
At Issue: May 12, 2009

ISSUE(S):

Whether the court erred in ruling that §37-92-305, C.R.S. requires the Well Augmentation Subdistrict of the Central Colorado Water Conservancy District (“WAS”) to replace depletions from well pumping that occurred prior WAS’ augmentation plan application.

Whether the court erred in ruling that depletions from the wells in the Box Elder Creek Basin must be determined using the assumption that ephemeral Box Elder Creek is a live stream, rather than assessing present conditions in the basin and determining actual impact of WAS Box Elder pumping on the South Platte River.

Whether the court erred in ruling that WAS’ proposed “well call” administrative term is not supported by existing statutes, case law, or administrative rules for Water Division No. 1, and that the State and Division Engineers lack administrative authority to use the “well call” technique in their administration of the South Platte River.

Whether the court’s May 3, 2006 order determining standard of review for SWSPs is legally erroneous.

07SC690 (½ HOUR)

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Aaron D. Tolbert.

) **For the Petitioner:**

) John W. Suthers

) Attorney General

) John D. Seidel

) Assistant Attorney General

)

) **For the Respondent:**

) Douglas K. Wilson

) Colorado State Public Defender

) Joseph Paul Hough

) Deputy State Public Defender

Certiorari to the Colorado Court of Appeals, 05CA1836

Docketed: August 8, 2007

At Issue: May 11, 2009

ISSUE(S):

Whether the CCA erred in failing to strike the phrase "plus 2 years parole" from the prison sentence imposed on a sex offender.

Whether, where the defendant presented a postconviction claim in a second postconviction motion in the trial court without having appealed the trial court's previous denial of that claim, the court of appeals erred in concluding that the second presentation of that claim was successive, when the correct procedural bar would have been abuse of process.

08SC777 (1 HOUR)

In re the Marriage of	)	For the Petitioner:
	)	Harry Griff
Petitioner:	)	Griff, Larson, Liache, Brennan & Wright
)	
Antoinette F. Thornhill,	)	For the Respondent:
	)	Vicki A. Alsin
and	)	Vicki A. Alsin, P.C.
)	
Respondent:)	
)	
Chuck Thornhill.)	

Certiorari to the Colorado Court of Appeals, 07CA1654
Docketed: October 2, 2008
At Issue: May 8, 2009

ISSUE(S):

Whether the appellate court erred by refusing to extend the holding of Pueblo Bancorporation v. Lindoe, Inc., 63 P.3d 353 (Colo. 2003), to divorce proceedings, thereby allowing the application of a marketability discount in valuing a closely held corporation operated as a going concern at the time of the parties' divorce proceeding.

Whether the court of appeals erred by reversing the district court's ruling, which upheld the magistrate's temporary maintenance award to wife, when it failed to consider the particular facts and circumstances of the parties' marriage within section 14-10-113(3)'s threshold requirements of "reasonable needs" and "appropriate employment."

08SC749 (½ HOUR)

In re the Marriage of	)	For the Petitioner:
	)	Robert E. Lanham
Petitioner:	)	Robert E. Lanham, P.C.
)	
Michael J. Roberts,	)	For the Respondent:
	)	Howard Bittman
and	)	Attorney at Law
)	
Respondent:)	
)	
Lori Jean Lipson n/k/a Lori Jean Lipson.)	

Certiorari to the Colorado Court of Appeals, 07CA0903
Docketed: September 22, 2008
At Issue: June 9, 2009

ISSUE(S):

Whether the court of appeals erred when it reversed the trial court and held that C.R.C.P. 16.2(e)(10) gives the trial court five years of continuing jurisdiction to retroactively reopen divorce cases when a post-decree motion alleging improper asset disclosure was filed after the rule's effective date of January 1, 2005 even though the underlying divorce case was filed before the new rule was in effect.

08SC748 (½ HOUR)

In re the Marriage of	)	For the Petitioner:
	)	Marie Avery Moses
Petitioner:	)	Judd R. Choate
Rainer Schelp,	)	Kelly Garnsey Hubbell + Lass LLC
)	
and	)	For the Respondent:
	)	Thomas E. Plog
Respondent:	)	Law Offices of Thomas E. Plog, P.C.
)	
Catherine Schelp.)	

Certiorari to the Colorado Court of Appeals, 06CA0424
Docketed: September 22, 2008
At Issue: July 13, 2009

ISSUE(S):

Whether the court of appeals erred when it reversed the trial court and held that C.R.C.P. 16.2(e)(10) gives the trial court five years of continuing jurisdiction to retroactively reopen divorce cases when a post-degree motion alleging improper asset disclosure was filed after the rule's effective date of January 1, 2005 even though the underlying divorce case was filed before the new rule was in effect.

Whether the court of appeals erred in concluding that retrospective application of C.R.C.P. 16.2(e)(10) to dissolution of marriage cases filed and concluded prior to January 1, 2005 was constitutional.

08SC887 (½ HOUR)

In re the Marriage of

Petitioner:

Aaron J. Barnett,

and

Respondent:

Teri L. Barnett.

) **For the Petitioner:**
) L. Paul LeRoux II
) Lee Strickler
) Stevens, Littman, Biddison, Tharp &
) Weinberg, LLC
)
) **For the Respondent:**
) Jennifer L. Motycka
) Jorgensen, Motycka & Lewis, P.C.
)
)

Certiorari to the Colorado Court of Appeals, 06CA1905

Docketed: October 31, 2008

At Issue: August 7, 2009

ISSUE(S):

Whether the court of appeals erred when it reversed the trial court and held that C.R.C.P. 16.2(e)(10) gives the trial court five years of continuing jurisdiction to retroactively reopen divorce cases when a post-degree motion alleging improper asset disclosure was filed after the rule's effective date of January 1, 2005 even though the underlying divorce case was filed before the new rule was in effect.

08SC510 (1 HOUR)

Petitioners:

James Moffett, individually and Rozan
O'Brien individually,

v.

Respondent:

Life Care Centers of America, a Tennessee
Corporation d/b/a Briarwood Health Care
Center.

) **For the Petitioners:**
) John Robert Holland
) Anna C. Holland-Edwards
) Erica Tick Grossman
) Law Office of John Robert Holland, P.C.

) **For the Respondent:**
) Ronald H. Nemirow
) Barbara H. Glogiewicz
) Miles Buckingham
) Kennedy Childs & Fogg, P.C.

) **For Amici Curiae AARP and NCCNHR:**
) **The National Consumer Voice for**
) **Quality Long-Term Care:**
) Benjamin Sachs
) Leventhal, Brown & Puga, P.C.

) **For Amicus Curiae Colorado Hospital**
) **Association:**
) Mark L. Sabey
) Kutak Rock LLP

) **For Amici Curiae American Health**
) **Care Association, National Center for**
) **Assisted Living, Colorado Health Care**
) **Association and The Alliance for Quality**
) **Nursing Home Care:**
) Fred Miles
) Nancy P. Tisdall
) Miles & Peters, PC

) **For Amicus Curiae Colorado Trial**
) **Lawyers Association:**
) Anthony Viorst
) The Viorst Law Offices, P.C.

) **For Amicus Curiae Colorado Defense**
) **Lawyers Association:**
) Alan Epstein
) Beth A. Dickhaus
) Hall & Evans, L.L.C.

Certiorari to the Colorado Court of Appeals, 07CA0376

Docketed: June 27, 2008

At Issue: May 8, 2009

ISSUE(S):

Whether the court of appeals erred when it held that mere powers of attorney have the authority to execute nursing home arbitration agreements on behalf of incapacitated patients, contrary to the HCAA's arbitration provisions, and the controlling precedents of this court.

Whether the court of appeals erred when it wholesale adopted the case law from Tennessee, concluding that the legal decision to arbitrate is a "medical treatment decision" in Colorado, and that a medical power of attorney thus has the power to execute non-mandatory nursing home arbitration agreements.

Whether the court of appeals impermissibly engaged in substituted fact-finding for the fact finding properly and clearly made by the trial court, contrary to this Court's holding in J.A. Walker Co., Inc. v. Cambria Corp., 159 P.3d 126, 130 (Colo. 2007). In that allegations challenging the validity of an arbitration clause itself are to be resolved by the trial court, and which so far departed from the accepted and usual course of judicial proceedings as to call for the exercise of the supreme court's power of supervision.

08SC686 (½ HOUR)

Petitioner:

K. W. S., a juvenile,

v.

Respondent:

The People of the State of Colorado.

) **For the Petitioner:**
) Carole C. Schriefer
) The Law Offices of Carole C. Schriefer,
) P.C.
)
) **For the Respondent:**
) John W. Suthers
) Attorney General
) Deborah Isenberg Pratt
) Assistant Attorney General

Certiorari to the Colorado Court of Appeals, 07CA0667

Docketed: September 2, 2008

At Issue: July 9, 2009

ISSUE(S):

Whether the court of appeals erred in dismissing petitioner's appeal based on a finding that a permanent probationary condition of his deferred judgment and sentence is not subject to direct appellate review unless and until such time as the deferred judgment is revoked.

08SC636 (1 HOUR)

Petitioners:) **(Filed a Joint Brief)**
) **For Petitioners James S. Covino, James**
Boston Stanton, Law Office of Boston) **Covino Law Office and James S. Covino,**
Stanton, James S. Covino, James Covino Law) **P.C.:**
Office, and James S. Covino P.C.,) Traci L. Van Pelt
) Troy R. Rackham
v.) Sarah M. Cantrick
) McConnell Fleischner Houghtaling &
Respondent:) Craigmile, LLC
) and
Rod Schultz.) **For Petitioner Boston Stanton and Law**
) **Offices of Boston Stanton:**
) Andrew McLetchie
) Timothy Schimberg
) Fowler, Schimberg & Flanagan, P.C.
)
) **For the Respondent:**
) Marc J. Kaplan
) Julia M. Purchase
) Kaplan Law L.L.C.
)
) **For Amicus Curiae Colorado Defense**
) **Lawyers Association:**
) John R. Mann
) Kennedy Childs & Fogg, P.C.
)
) **For Amicus Curiae Colorado Trial**
) **Lawyers Association:**
) Peter J. Krumholz
) Hale Friesen, LLP

Certiorari to the Colorado Court of Appeals, 06CA2338

Docketed: August 11, 2008

At Issue: August 31, 2009

ISSUE(S):

Whether a judgment that satisfies all the criteria for issue preclusion should be denied preclusive effect because it considered and resolved multiple issues instead of a single issue.

09SA91 (1 HOUR)

In Re	)	For the Plaintiff (Petitioner):
	)	Thom K. LeDoux
Plaintiff:	)	District Attorney
	)	Kathleen M. O'Brien
The People of the State of Colorado,	)	Deputy District Attorney
)	
v.	)	For the Defendant (Respondent):
	)	Sean P. Paris
Defendant:	)	Pearson, Horowitz & Burnett, P.C.
)	
Malinda E. Spykstra.	)	For Amicus Curiae Office of the
	)	Colorado State Public Defender:
	)	Douglas K. Wilson
	)	Colorado State Public Defender
	)	Ann M. Roan
	)	Deputy State Public Defender
)	
	)	For Amicus Curiae The Colorado
	)	District Attorneys' Council:
	)	Scott W. Storey
	)	District Attorney
	)	Donna Skinner Reed
	)	Chief Appellate Deputy District Attorney
	)	and
	)	(Joined District Attorney's Brief)
	)	John W. Suthers
	)	Attorney General
	)	Catherine P. Adkisson
	)	Assistant Solicitor General
)	
	)	For Amicus Curiae The National Crime
	)	Victim Law Institute:
	)	Kimberly M. Hult
	)	Hutchinson Black and Cook, LLC
)	
	)	For Amicus Curiae Subpoenees and
	)	Parents of Victim of Child Sexual
	)	Assault:
	)	John C. Clune
	)	Victim Justice, P.C.

-) **Amicus Curiae the Victim:**
-) John C. Clune
-) Colorado Crime Victims Legal Clinic &
-) Victim Justice, P.C.

Original Proceeding, District Court, Park County, 09CR02

Docketed: April 20, 2009

At Issue: June 22, 2009

ISSUE(S):

Whether the respondent court abused its discretion in granting the defendant access to the private e-mails between the victim and her parents without requiring any showing that the examination of the victim's personal e-mails would reasonably lead to useful and potentially exculpatory evidence.

09SC68 (½ HOUR)

Petitioner:

Board of County Commissioners of the
County of Boulder,

v.

Respondent:

Hygiene Fire Protection District.

) **For the Petitioner:**
) H. Lawrence Hoyt
) County Attorney
) Pat A. Mayne
) Deputy County Attorney

) **For the Respondent:**
) Joseph Adams Cope
) Frasca, Joiner, Goodman and
) Greenstein, P.C.

) **For Amicus Curiae Northern Colorado
Water Conservancy District Municipal
Subdistrict, Northern Colorado Water
Conservancy District and Special
District Association of Colorado:**
) Peggy E. Montañó
) Lisa M. Thompson
) Trout, Raley, Montañó, Witwer &
) Freeman, P.C.
) and
) Mary G. Zuchegno

Certiorari to the Colorado Court of Appeals, 07CA2354

Docketed: January 26, 2009

At Issue: July 23, 2009

ISSUE(S):

Whether it was error for the district court and court of appeals to find that section 30-28-110(1) of the Boulder County Planning and Building Code exempts a fire protection district -- which is planning to obtain ownership of and develop an outlot in a subdivision within a planned unit development -- from the requirements of section 24-67-106(3)(b) of the Planned Unit Development Act.

08SC539 (1 HOUR)

Petitioner:

Daniel Zamarripa-Diaz,

v.

Respondent:

The People of the State of Colorado.

) **For the Petitioner:**
) Douglas K. Wilson
) Colorado State Public Defender
) Elizabeth Griffin
) Deputy State Public Defender
)
) **For the Respondent:**
) John W. Suthers
) Attorney General
) John T. Lee
) Assistant Attorney General

Certiorari to the Colorado Court of Appeals, 06CA0186

Docketed: July 7, 2008

At Issue: September 2, 2009

ISSUE(S):

Whether the court of appeals erred in finding no reversible plain error arising from an instruction that prevented the jury from considering the lesser-included offense of second-degree burglary unless and until the jury first unanimously acquitted the petitioner of first-degree burglary.

Whether Medina v. People, 114 P.3d 845 (Colo. 2005), and due process require the trial court to give the petitioner an opportunity to be heard prior to asking juror questions of witnesses, and whether the court's refusal to do so in this case requires reversal.
