

*ANNOUNCEMENTS
COLORADO COURT OF APPEALS
September 24, 2015*

“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.

PUBLISHED OPINIONS

[2015COA130](#)

Court of Appeals No. [12CA0492](#)
Montrose County District Court No. 10CR325
Honorable David A. Bottger, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Myrl Serra,

Defendant-Appellant.

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

Division I
Opinion by JUDGE BERGER
Taubman and Hawthorne, JJ., concur

[2015COA131](#)

Court of Appeals No. [12CA0715](#)
Weld County District Court No. 10CR1526
Honorable Timothy G. Kerns, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Mikel Morehead,

Defendant-Appellant.

ORDER REVERSED, JUDGMENT REVERSED,
AND CASE REMANDED WITH DIRECTIONS

Division V
Opinion by JUDGE TERRY
Román and Ashby, JJ., concur

[2015COA132](#)

Court of Appeals No. [12CA2069](#)
El Paso County District Court No. 11CR3701
Honorable Thomas L. Kennedy, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Kimberlie Deann Verigan,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE ASHBY
Furman and Booras, JJ., concur

[2015COA133](#)

Court of Appeals No. [14CA0281](#)
Boulder County District Court No. 12CV856
Honorable Bruce D. Langer, Judge

Carol Rademacher,

Plaintiff-Appellee,

v.

John Becker, Trustee of the John E. Becker Trust,

Defendant-Appellant.

JUDGMENT REVERSED AND CASE
REMANDED WITH DIRECTIONS

Division V
Opinion by JUDGE TERRY
Román and Ashby, JJ., concur

[2015COA134](#)

Court of Appeals No. [14CA0606](#)
Grand County District Court No. 12DR24
Honorable Michael A. O'Hara, III, Judge

In re the Marriage of

Fiona Mary Lohman,

Appellee,

and

Michael Joseph Lohman,

Appellant.

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

Division VII
Opinion by JUDGE BERGER
Lichtenstein and Navarro, JJ., concur

[2015COA135](#)

Court of Appeals Nos. [14CA0950](#) & [14CA0968](#)

Jefferson County District Court Nos. 12CV2550 & 12CV302550

Honorable Dennis J. Hall, Judge

American Family Mutual Insurance Company; Safeco Insurance Company of America; Allstate Insurance Company; IDS Property Casualty Insurance Company; Federated Mutual Insurance Company; Metropolitan Property and Casualty Insurance Company; Colorado Casualty Insurance Company; State Farm Fire And Casualty Company; Property & Casualty Insurance Company of Hartford; Sentinel Insurance Company; Westfield Insurance Company; Farmers Insurance Exchange; Mid-Century Insurance Company; Fire Insurance Exchange; Truck Insurance Exchange; Foremost Insurance Company Grand Rapids, Michigan; United Services Automobile Association; USAA Texas Lloyds Insurance Company; USAA Casualty Insurance Company; USAA General Indemnity Company; USAA County Mutual Insurance Company; Garrison Property Casualty and Insurance Company; Colorado Farm Bureau Mutual Insurance Company; and Progressive Preferred Insurance Company,

Plaintiffs-Appellants,

v.

American National Property and Casualty Company,

Respondent-Appellant,

and

Colorado Department of Public Safety and Denver Water Board,

Defendants-Appellees.

JUDGMENT AND ORDER AFFIRMED

Division I

Opinion by JUDGE HAWTHORNE
Taubman and Berger, JJ., concur

[2015COA136](#)

Court of Appeals No. [14CA1554](#)

City and County of Denver Juvenile District Court No. 14JD131

Honorable Laurie Clark, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

In the Interest of D.I.,

Juvenile-Appellant.

JUDGMENT AFFIRMED AND ORDER VACATED

Division III

Opinion by JUDGE LICHTENSTEIN

Dailey and Fox, JJ., concur

[2015COA137](#)

Court of Appeals No. [14CA1861](#)

Colorado Real Estate Commission No. RC 2013-0011

In re the Disciplinary Action Against the Real Estate Broker's License of
Bernard McDonnell, License No. EA40019308,

Respondent-Appellant,

v.

The Colorado Real Estate Commission,

Petitioner-Appellee.

ORDER AFFIRMED IN PART
AND REVERSED IN PART

Division III

Opinion by JUDGE FOX

Dailey and Lichtenstein, JJ., concur

[2015COA138](#)

Court of Appeals No. [14CA1888](#)

Weld County District Court No. 10CV1079

Honorable Julie C. Hoskins, Judge

Randy Loveland, individually and as father and next friend to Alexa Rae Loveland, a minor child; Mary Nicole Loveland, individually and as mother and next friend to Alexa Rae Loveland, a minor child;

Plaintiffs-Appellants,

v.

St. Vrain Valley School District RE-1J and Cathy O'Donnell,

Defendants-Appellees.

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

Division V
Opinion by JUDGE STERNBERG*
Loeb, C.J., and Román, J., concur

UNPUBLISHED OPINIONS

Court of Appeals No. 11CA1139
Larimer County District Court No. 09CR1708
Honorable Dave Williams, Judge

The People of the State of Colorado,

Plaintiff-Appellee and Cross-Appellant,

v.

Horacio Javier Pasillas-Rodriguez, Jr.,

Defendant-Appellant and Cross-Appellee

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE ROTHENBERG*
Terry and Plank*, JJ., concur

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

Court of Appeals No. 12CA1585
Arapahoe County District Court No. 10CR2563
Honorable Carlos A. Samour, Jr., Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Daniel A. Agakian,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division III
Opinion by JUDGE LICHTENSTEIN
Dailey and Vogt*, JJ., concur

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

Court of Appeals No. 12CA1976
Weld County District Court No. 11CR1241
Honorable Todd L. Taylor, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Dominick Michael Ramirez,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division IV
Opinion by JUDGE ROMÁN
Graham and Plank,* JJ., concur

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

Court of Appeals No. 13CA0931
El Paso County District Court No. 11CR2880
Honorable Scott A. Sells, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Frani Lisa Olivas,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE ROTHENBERG*
Terry and Plank*, JJ., concur

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

Court of Appeals No. 13CA1027
El Paso County District Court No. 06CR5149
Honorable Thomas L. Kennedy, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Thomas Lynn O'Hara,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division VII
Opinion by JUDGE MILLER
Ashby and Kapelke*, JJ., concur

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

Court of Appeals No. 13CA1273
El Paso County District Court No. 12CR2870
Honorable Gregory R. Werner, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Markus Gerald,

Defendant-Appellant.

JUDGEMENT AND SENTENCE AFFIRMED

Division VI
Opinion by JUDGE ROTHENBERG*
Terry and Plank*, JJ., concur

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

Court of Appeals No. 13CA1664
Jefferson County District Court No. 13CR46
Honorable Jane A. Tidball, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Jose Manuel Apodaca,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division A
Opinion by CHIEF JUDGE LOEB
Sternberg* and Rothenberg*, JJ., concur

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

Court of Appeals No. 13CA1792
Pueblo County District Court Nos. 08CR674 & 08CR922
Honorable Larry J. Naves, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Robert Anthony Pemberton,

Defendant-Appellant.

ORDER AFFIRMED

Division III
Opinion by JUDGE WEBB
Fox and Berger, JJ., concur

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

Court of Appeals No. 13CA2025
Weld County District Court No. 12CR1416
Honorable Julie C. Hoskins, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Nicholas Jason Hall,

Defendant-Appellant.

JUDGMENT AFFIRMED

Division II
Opinion by JUDGE BOORAS
Dailey and Navarro, JJ., concur

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

Court of Appeals No. 14CA1092
Chaffee County District Court No. 13CV30068
Honorable Charles M. Barton, Judge

Jeff Auxier,

Plaintiff-Appellant,

v.

Jan Schmidt, in her official capacity as the Finance Director for the City of Salida; Dara McDonald, in her official capacity as Administrator for the City of Salida; Eileen Rogers; the City of Salida; Jim Dickson, in his official capacity as the Mayor of the City of Salida; and City Council, City of Salida, and its individual members thereof (Bowers, Yerkey, Baker, Brown, Hallett, and Rogers),

Defendants-Appellants.

ORDERS AFFIRMED IN PART
AND REVERSED IN PART

Division III
Opinion by JUDGE LICHTENSTEIN
Dailey and Fox, JJ., concur

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

Court of Appeals No. 14CA1345
Custer County District Court No. 14CV30000
Honorable Robert Freeman, Judge

Centennial Ranch and Aspen Mountain Ranch Association,

Petitioner-Appellee,

v.

Robert Klein,

Respondent-Appellant.

APPEAL DISMISSED

Division I
Opinion by JUDGE HAWTHORNE
Taubman and Berger, JJ., concur

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

Court of Appeals No. 14CA1364
Arapahoe County District Court No. 12CV1951
Honorable J. Mark Hannen, Judge

Helen Turecek,

Plaintiff-Appellee,

v.

Marshall Dakota Martin and Chelsea Nicole Martin,

Defendants-Appellants.

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE DUNN
Terry and Rothenberg*, JJ., concur

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

Court of Appeals No. 14CA1455
Mesa County District Court No. 07CR1572
Honorable Brian J. Flynn, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

David B. Hoeck,

Defendant-Appellant.

ORDER AFFIRMED

Division A
Opinion by JUDGE STERNBERG*
Loeb, C.J., and Rothenberg*, J., concur

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

Court of Appeals No. 14CA1728
Jefferson County District Court No. 10DR3439
Honorable Christopher C. Zenisek, Judge

In re the Marriage of

Robin Julie Schneider,

Appellee,

and

Karl Matthew Schneider,

Appellant.

ORDER AFFIRMED

Division III
Opinion by JUDGE FOX
Webb and Berger, JJ., concur

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

Court of Appeals No. 14CA1940
El Paso County District Court No. 92CR177
Honorable Robin Chittum, Judge

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Martin A. Turnbull,

Defendant-Appellant.

ORDER AFFIRMED

Division V
Opinion by JUDGE RICHMAN
Hawthorne and Furman, JJ., concur

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

Court of Appeals No. 14CA2169
Gunnison County District Court No. 13CV30035
Honorable J. Steven Patrick, Judge

Christopher Klein Construction, Inc., a Colorado corporation,

Plaintiff-Appellee,

v.

Sheron M. Jelinek Owen Living Trust, dated October 31, 2001; and Sheron
Owen,

Defendants-Appellants.

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

Division V
Opinion by JUDGE HAWTHORNE
Furman and Richman, JJ., concur

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

Court of Appeals No. 14CA2263
Costilla County District Court No. 13DR30000
Honorable Pattie P. Swift, Judge

In re the Marriage of

Brittany Ann Gutwein,

Appellee,

and

Michael Todd Gutwein,

Appellant.

JUDGMENT AFFIRMED

Division VI
Opinion by JUDGE DUNN
Terry and Rothenberg*, JJ., concur

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

Court of Appeals No. 15CA0994
Industrial Claim Appeals Office of the State of Colorado
DD No. 6001-2015

Isela Martinez,

Petitioner,

v.

Industrial Claim Appeals Office of the State of Colorado and Denver Public
Schools,

Respondents.

ORDER AFFIRMED

Division A
Opinion by JUDGE ROTHENBERG*
Loeb, C.J., and Sternberg*, J., concur

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. 12CA1145

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Benjamin Ray Lucero,

Defendant-Appellant.

Petition for Rehearing DENIED

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

Court of Appeals No. 13CA2023

The People of the State of Colorado,

Plaintiff-Appellee,

v.

Samuel G. Fikadu,

Defendant-Appellant.

Petition for Rehearing DENIED

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

Court of Appeals No. 14CA0255

Zeke Coffee, Inc., a Colorado corporation, and Darren Spreeuw,

Plaintiffs-Appellees and Cross-Appellants,

v.

Pappas-Alstad Partnership,

Defendant-Appellant and Cross-Appellee.

Petition for Rehearing DENIED

Court of Appeals No. 14CA0806

Dennis Austin Patten, as Trustee of The Dennis Austin Patten Living Trust; Michael C. Vincent; Kimberly H. Vincent; Laurent Lewkowitz; Holly Lewkowitz; Karl Plott; Lothar Schulz; Jerrold Barone; Nancy Barone; Stephen Welsh; Michelle Welsh; and Sandra D. Green Trust, Date June 12, 1995, a Florida Trust,

Plaintiffs-Appellees and Cross-Appellants,

v.

Estate of Boyace J. Holland; Aspen Pine Estates, Inc., a Colorado corporation; Sandra Holland; Jeff Holland; Glen Holland; and Susan Holland,

Defendants-Appellants and Cross-Appellees.

Petition for Rehearing DENIED

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

Court of Appeals No. 14CA1219

Vincent C. Todd,

Plaintiff-Appellant,

v.

Ann Hause, as director of Legal and Regulatory Compliance for the Colorado Department of Public Health and Environment; Jeffery A. Groff, as program manager for the Evidential Breath Alcohol Testing Program of the Colorado Department of Public Health and Environment; and Colorado Department of Public Health and Environment,

Defendant-Appellee.

Petition for Rehearing DENIED

Court of Appeals No. 14CA1421

Dana Lynn Simmons,

Appellant,

v.

The People of the State of Colorado,

Appellee.

Petition for Rehearing DENIED

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

Court of Appeals No. 14CA1743

In the Matter of the Estate of Kay Purvis, deceased.

David L. Purvis, as Personal Representative of the Estate of Kay Barbara Purvis,

Petitioner-Appellant,

v.

Virginia Purvis, Barbara Purvis, and Purvis Properties, LLC,

Appellees.

Petition for Rehearing DENIED

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

Court of Appeals No. 14CA2077

Douglas A. Glaser,

Plaintiff-Appellant,

v.

Rick Raemisch, Executive Director of Colorado Department of Corrections;
Cynthia H. Coffman, Colorado Attorney General; and Travis Tani, Warden of
Colorado State Penitentiary,

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. 2015.