

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, JUNE 29, 2015**

"Slip opinions" are the opinions delivered by the Supreme Court Justices and are subject to modification, rehearing, withdrawal, or clerical corrections. Modifications to previously posted opinions will be linked to the case number in the petition for rehearing section the day the changes are announced.

Click on the case number to view the opinion in pdf format.

OPINIONS

The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

[2015 CO 48](#)

[Supreme Court Case No. 12SC1029](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 10CA1346

Petitioner:

James Robert Stackhouse,

v.

Respondent:

The People of the State of Colorado.

Judgment Affirmed
en banc

CHIEF JUSTICE RICE delivered the Opinion of the Court.
JUSTICE MÁRQUEZ dissents.

**CASE ANNOUNCEMENTS
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The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

[2015 CO 49](#)

[Supreme Court Case No. 13SC356](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 10CA1480

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Omer Kelil Hassen.

Judgment Affirmed
en banc

CHIEF JUSTICE RICE delivered the Opinion of the Court.

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The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

[2015 CO 50](#)

[Supreme Court Case No. 13SC233](#)

Certiorari to the Colorado Court of Appeals
Court of Appeals Case Nos. 11CA1856 & 11CA1857

Petitioners:

Taxpayers for Public Education; Cindra S. Barnard; Mason S. Barnard; James LaRue; Suzanne T. LaRue; Interfaith Alliance of Colorado; Rabbi Joel R. Schwartzman; Rev. Malcolm Himschoot; Kevin Leung; Christian Moreau; Maritza Carrera; and Susan McMahon,

v.

Respondents:

Douglas County School District, Douglas County Board of Education, Colorado State Board of Education, and Colorado Department of Education,

and

Intervenors-Respondents:

Florence and Derrick Doyle, on their own behalf and as next friends of their children, A.D. and D.D.; Diana Oakley and Mark Oakley, on their own behalf and as next friends of their child, N.O.; and Jeanette Strohm-Anderson and Mark Anderson, on their own behalf and as next friends of their child, M.A.

Judgment Reversed

en banc

CHIEF JUSTICE RICE announced the judgment of the Court.

JUSTICE MÁRQUEZ concurs in the judgment.

JUSTICE EID concurs in part and dissents in part, and **JUSTICE COATS** and **JUSTICE BOATRIGHT** join in the concurrence in part and dissent in part.

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The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

[2015 CO 51](#)

[Supreme Court Case No. 13SA132](#)

Appeal from the District Court

Garfield County District Court, Water Division 5, Case No. 07CW176
Honorable James B. Boyd, Water Judge

Plaintiffs-Appellants:

St. Jude's Co. and Reno Cerise,

v.

Defendants-Appellees:

Roaring Fork Club, L.L.C.; Basalt Water Conservancy District; and Colorado Water
Conservation Board;

and

Appellee Pursuant to C.A.R. 1(e):

Alan Martellaro, Division Engineer, Water Division 5.

Judgment Affirmed in Part, Reversed in Part, and Remanded with Directions

en banc

JUSTICE COATS delivered the Opinion of the Court.

JUSTICE MÁRQUEZ concurs in part and dissents in part, and **JUSTICE HOOD** joins in
the concurrence in part and dissent in part.

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The Supreme Court of the State of Colorado
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[2015 CO 52](#)

[Supreme Court Case No. 13SA135](#)

Appeal from the District Court

Alamosa County District Court, Water Division 3, Case Nos. 06CV64 & 07CW52
Honorable Pattie P. Smith, Water Judge

Concerning the Office of the State Engineer’s Approval of the Plan of Water Management for the Special Improvement District No. 1 of the Rio Grande Water Conservation District
and

Concerning the Special Improvement District No. 1 of the Rio Grande Water Conservation District’s Approval of the Plan of Water Management for the Special Improvement District No. 1 of the Rio Grande Water Conservation District

Objectors-Appellants:

San Antonio, Los Pinos and Conejos River Acequia Preservation Association; Save Our Senior Water Rights, LLC; Richard H. Ramstetter; and Costilla Ditch Company,

v.

Applicant-Appellee:

Special Improvement District No. 1 of the Rio Grande Water Conservation District,
and

Defendant-Appellee:

Dick Wolfe, P.E., State Engineer,
and

Objectors-Appellees:

Rio Grande Water Conservation District; Rio Grande Water Users Association; Conejos Water Conservancy District; Farming Technology Corporation; Mountain Coast Enterprises, LLC; Ernest Myers; Freda Myers; Virginia Myers; Warren Myers; Nevitt Farms; Sam Investments, Inc.; Skyview Cooling Company, Inc.; Waijaya Colorado, LLC; Edward Harmon; Sherilyn R. Harmon; David Bradley; Perry Alsbaugh; Martin Shellabarger; Kelly

**CASE ANNOUNCEMENTS
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Sowards; Richard L. Benton; Jason L. Benton; Thomas C. Corzine; Clayton C. Corzine; Roy McConnel, Jr.; Fredrick V. Paulson; Fredrick L. Paulson, II; Norman W. Slade; Off Ranches, Inc.; Cristi Lewis; Robert Atkins; Mario Bassi; Obbie Dickey; N.W. Ellithorpe; Kari King; Laurie Lovato; Timothy Lovato; Laurie McClung; Ed Nielson; Janis Slade; and C.R. Tomlin,

and

Appellee Pursuant to C.A.R. 1(e):

Craig Cotten, Division Engineer, Water Division No. 3.

Judgment Affirmed

en banc

JUSTICE MÁRQUEZ delivered the Opinion of the Court.

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The Supreme Court of the State of Colorado
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[2015 CO 53](#)

[Supreme Court Case No. 14SA35](#)

Original Proceeding Pursuant to C.A.R. 21
Boulder County District Court Case No. 07CR388
Honorable Patrick Butler, Judge

In Re

Plaintiff:

The People of the State of Colorado,

v.

Defendant:

Kevin F. Elmarr, Sr.

Rule Made Absolute

en banc

JUSTICE MÁRQUEZ delivered the Opinion of the Court.

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The Supreme Court of the State of Colorado
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[2015 CO 54](#)

[Supreme Court Case No. 12SC1027](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 10CA788

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Derrick Demetrus Wilson.

Judgment Reversed
en banc

JUSTICE BOATRIGHT delivered the Opinion of the Court.
JUSTICE MÁRQUEZ concurs in part and dissents in part.

**CASE ANNOUNCEMENTS
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The Supreme Court of the State of Colorado
2 East 14th Avenue • Denver, Colorado 80203

[2015 CO 55](#)

[Supreme Court Case No. 13SC115](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 09CA2404

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Romiolo Rodriguez.

Judgment Reversed
en banc

JUSTICE BOATRIGHT delivered the Opinion of the Court.

PETITIONS FOR REHEARING

NONE

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
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PETITIONS FOR WRIT OF CERTIORARI

No. 14SC409
Court of Appeals Case No. 11CA1374

Petitioner:

Jason Lee Stroud,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC431
Court of Appeals Case No. 12CA2312 & 12CA2316

Petitioner:

Ryan Ranch Community Association, Inc.,

v.

Respondents:

John E. Kelley, Kelly D. Kelley, Rick Zimmerman, and Lora Zimmerman.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issues:

Whether the process of “annexation by deed” to form units within common interest communities is void under the Colorado Common Interest Ownership Act.

Whether a plat map that subdivides property identified in an earlier declaration constitutes an amendment to said declaration.

Whether a homeowner who has actual knowledge of a declaration amendment can avoid paying community assessments based on a clerical error in the recorder’s index.

CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, JUNE 29, 2015

No. 14SC478
Court of Appeals Case No. 12CA801

Petitioner/Cross-Respondent:

Donald Roy Lucero,

v.

Respondent/Cross-Petitioner:

The People of the State of Colorado.

Petition and Cross-Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC494
Court of Appeals Case No. 13CA1185

Petitioner:

Arnold A. Calderon,

v.

Respondent:

American Family Mutual Insurance Company.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issues:

[REFRAMED] Whether the statutory structure governing automobile insurance permits an insurer to reduce its payment to an insured for an Uninsured/Underinsured Motorist ("UM/UIM") claim by the payments it already made to the insured under the insured's Medical Payments ("MedPay") coverage.

Whether the collateral source rule prohibits a setoff of the amount of the coverage available under UM/UIM coverage by MedPay coverage.

ALL OTHER ISSUES DENIED.

CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
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No. 14SC645
Court of Appeals Case No. 11CA322

Petitioner:

Brandin Eugene Kreuzer,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC648
Court of Appeals Case No. 07CA1217

Petitioner:

Sanford B. Schupper,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 14SC682
Court of Appeals Case No. 12CA391

Petitioner:

Montrell Vincent Watson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
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No. 14SC766
Court of Appeals Case No. 13CA1621

Petitioner:

TABOR Foundation, a Colorado non-profit corporation,
v.

Respondents:

Douglas Aden, Heather Barry, Colorado Bridge Enterprise, Colorado Transportation Commission, Kathy Connell, Kathy Gilliland, Les Gruen, Gilbert Ortiz, Steve Parker, Trey Rogers, Gary M. Reiff, and Edward J. Peterson, all in their Official Capacities as members of the Colorado Transportation Commission.

Petition for Writ of Certiorari DENIED. EN BANC.
JUSTICE MÁRQUEZ does not participate.

JUSTICE EID would grant as to the following issues:

Whether an involuntary bridge surcharge levied on vehicle registration is a tax or a TABOR-exempt fee when the vehicle does not cross bridges funded by the surcharge.

Whether a TABOR-exempt enterprise must be operated as a self-supporting business and the transactions between the enterprise and customers must be market exchanges taking place in a competitive, arms-length manner.

Whether the General Assembly's definition of "grant" in section 24-77-102(7), C.R.S. (2014), correctly interpreted the purpose and meaning of TABOR.

**CASE ANNOUNCEMENTS
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No. 15SC11
Court of Appeals Case No. 13CA551

Petitioner:

Jeffrey Raymond Cisneros,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 15SC55
Weld County District Court Case No. 14CV30633

Petitioner:

Ricarda Cervantes,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.
