

**CASE ANNOUNCEMENTS  
COLORADO SUPREME COURT  
TUESDAY, SEPTEMBER 6, 2016**

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"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**

NONE

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**PETITIONS FOR REHEARING**

NONE

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**ORIGINAL PROCEEDING PURSUANT TO C.A.R. 21**

No. 16SA234, In re the Marriage of Hokanson and Hokanson, III

Mesa County District Court Case No. 11DR593

Order to Show Cause issued on August 19, 2016

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**PETITIONS FOR WRIT OF CERTIORARI**

No. 15SC268  
Court of Appeals Case No. 07CA561

**Petitioner:**

Robert Keith Ray,  
v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of Issues:

Whether an instruction qualifying the availability of self-defense erroneously shifts the burden of proof.

Whether the court of appeals misapplied DeBella v. People, 233 P.3d 664 (Colo. 2010), in holding that the trial court did not grant the deliberating jury unfettered access to the video interview of key prosecution witness.

DENIED AS TO ALL OTHER ISSUES.

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No. 15SC507  
Court of Appeals Case No. 12CA581

**Petitioner:**

Kevin Michael McGregor,  
v.

**Respondent:**

The People of the State of Colorado.

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

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No. 15SC526  
Court of Appeals Case No. 12CA570

**Petitioner:**

Donte E. Colon,

v.

**Respondent:**

The People of the State of Colorado.

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

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No. 15SC888  
Court of Appeals Case No. 14CA798

**Petitioner:**

State Farm Mutual Automobile Insurance Company,

v.

**Respondent:**

Jack Sunahara, Jr.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 15SC931  
Court of Appeals Case No. 12CA2069

**Petitioner:**

Kimberlie Deann Verigan,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issue:

[REFRAMED] Whether the court of appeals erred in concluding that the fractured opinion in Missouri v. Seibert, 542 U.S. 600 (2004), created no precedential rule – such that Oregon v. Elstad, 470 U.S. 298 (1985), continues to control the admissibility of warned confessions that follow initial, unwarned confessions.

DENIED AS TO ALL OTHER ISSUES.

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No. 15SC935  
Court of Appeals Case No. 12CA715

**Petitioner:**

The People of the State of Colorado,  
v.

**Respondent:**

Mikel Morehead.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issue:

Whether the court of appeals erred in concluding that, on remand, the trial court could not consider additional arguments regarding whether the exclusionary rule requires evidence to be suppressed.

DENIED AS TO ALL OTHER ISSUES.

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No. 15SC948  
Court of Appeals Case No. 14CA639

**In re the Marriage of**

**Petitioner:**

Mark D. Moller,  
and

**Respondent:**

The Estate of Carol L. Moller, through its personal representative Mary Elizabeth Barrett.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 15SC968  
Court of Appeals Case No. 12CA1976

**Petitioner:**

Dominick Michael Ramirez,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 15SC979  
Court of Appeals Case No. 14CA1504

**Petitioner:**

Edward Laves,

v.

**Respondents:**

Computer and Communication Technologies, Inc.; and Japan Communications, Inc.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 15SC1025  
Court of Appeals Case No. 13CA1699

**Petitioner/Cross-Respondent:**

The People of the State of Colorado,

v.

**Respondent/Cross-Petitioner:**

Ottoniel Anibal Mendez.

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

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No. 15SC1077  
Court of Appeals Case No. 12CA11

**Petitioner:**

James Patrick Bowers,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 15SC1098  
Court of Appeals Case No. 12CA578

**Petitioner:**

David Michael Purnell,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC9  
Court of Appeals Case No. 13CA738

**Petitioner:**

Jose DeLeon,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC52  
Court of Appeals Case No. 14CA2519

**Petitioner:**

R.S., a minor, by and through his mother, Ramona Smith,  
v.

**Respondents:**

Cheyenne Mountain School District 12 and Cheyenne Mountain Charter Academy.

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

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No. 16SC66  
Court of Appeals Case No. 12CA575

**Petitioner:**

Jason Garner,  
v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE HOOD and JUSTICE GABRIEL would grant as to the following issue:

Whether the court of appeals erred in adopting a novel rule of law that allows appellate courts to invent post hoc strategic justifications for counsel's actions, regardless of the evidence at the Crim. P. 35(c) hearing.

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No. 16SC79  
Court of Appeals Case No. 14CA1354

**Petitioner:**

Charles Stogsdill,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC85  
Court of Appeals Case No. 14CA1584

**Petitioner:**

Dillon Companies, Inc., d/b/a/ King Soopers,

v.

**Respondent:**

Roosevelt Holden.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC126  
Court of Appeals Case No. 14CA1938

**Petitioner:**

Gustav A. Mehrer,

v.

**Respondent:**

The People of the State of Colorado.

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

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No. 16SC134  
Court of Appeals Case No. 14CA2033

**Petitioners:**

Khalil Laleh, Leila Tabrizi, and Ali Laleh,

v.

**Respondents:**

Gary C. Johnson and Gary C. Johnson and Associates, LLC.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issue:

[REFRAMED] Whether the court of appeals erred in affirming the trial court's order directing the parties to pay for collection-related costs and fees incurred by a court-appointed expert and special master after the case was dismissed.

DENIED AS TO ALL OTHER ISSUES.

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No. 16SC148  
Court of Appeals Case No. 13CA334

**Petitioner:**

Francisco H. Charles,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC155  
Court of Appeals Case No. 14CA1207

**Petitioners:**

Gustav Eicher and Matthew Stotz,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC165  
Court of Appeals Case No. 13CA644

**Petitioner:**

Zachary James Bohn,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC221  
Adams County District Court Case No. 15CV31533

**Petitioner:**

David Jakowich,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC262  
Court of Appeals Case No. 15CA1347

**Petitioners:**

Concrete Frame Associates, Inc.; American Zurich Insurance Co.; and Industrial Claim Appeals Office of the State of Colorado,  
v.

**Respondent:**

Arnold S. Archuletta.

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

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No. 16SC276  
Court of Appeals Case No. 14CA2387

**Petitioner:**

The People of the State of Colorado,  
v.

**Respondent:**

Alfred Gabriel Sandoval.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issue:

Whether the trial court plainly erred and improperly sentenced the defendant in excess of the statutory maximum for purposes of Blakely v. Washington, 542 U.S. 296 (2004), when it imposed an aggravated community corrections sentence.

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No. 16SC296  
Court of Appeals Case No. 13CA1850

**Petitioner/Cross-Respondent:**  
The People of the State of Colorado,

v.

**Respondent/Cross-Petitioner:**  
William Edward Johnson.

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

JUSTICE COATS and JUSTICE EID would grant as to the following issues:

Whether a jury can use its disbelief of a defendant's statement that he was asleep when he made sexual contact with a child as affirmative evidence that he was awake.

Whether a jury can conclude that the defendant and the victim were describing the same incident even though their accounts differed regarding who initiated the sexual contact.

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No. 16SC309  
Court of Appeals Case No. 14CA1581

**Petitioner:**  
Farmers State Bank of Brush, Trustee of the Alonzo & Anna Petteys Children's Trust,  
Share for Robert A. Petteys' Issue,

v.

**Respondent:**  
The Estate of Robert A. Petteys, by and through the Personal Representative, Beverly Beattie.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC321  
Court of Appeals Case No. 14CA2502

**Petitioners:**

Ivo Lindauer; Sidney Lindauer; Ruth Lindauer; and Diamond Minerals, LLC, on behalf of themselves and all others similarly situated,

v.

**Respondent:**

Williams Production RMT Company, n/k/a WPX Energy Rocky Mountain, LLC.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE COATS would grant as to the following issue:

Whether an oil and gas producer may charge royalty owners a portion of the expense of transporting gas downstream from the first commercial market when bypassing the first commercial market does not increase royalty revenue.

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No. 16SC339  
Court of Appeals Case No. 15CA1481

**Petitioners:**

Honnen Equipment Company and Pinnacol Assurance,

v.

**Respondents:**

Keith Sanchez and Industrial Claim Appeals Office of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE HOOD does not participate.

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No. 16SC355  
Court of Appeals Case No. 14CA1057

**Petitioner:**

The People of the State of Colorado,  
v.

**Respondent:**

James Leonard Garcia.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC365  
Court of Appeals Case Nos. 15CA190 & 15CA331

**Petitioner:**

United States Welding, Inc., a Colorado corporation,  
v.

**Respondents:**

Advanced Circuits, Inc., a Colorado corporation and Buckeye Welding Supply  
Company, Inc., a Colorado corporation.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of Issues:

[REFRAMED] Whether the court of appeals erred in concluding that petitioner failed to mitigate damages by refusing to accept a settlement offer that would have compensated it for lost profits resulting from the respondent's breach of contract where the settlement was offered before the respondent actually breached.

Whether, when a litigant prevails on all claims against an opponent, the law mandates it to be the prevailing party.

DENIED AS TO ALL OTHER ISSUES.

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No. 16SC366  
Court of Appeals Case No. 15CA346

**Petitioner:**

Scott E. Foster,

v.

**Respondent:**

John E. Plock.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of Issues:

[REFRAMED] Whether the court of appeals erred in ruling that the mutuality requirement of claim preclusion has been abolished under Colorado law.

[REFRAMED] Whether the court of appeals erred in finding that the petitioner's claim was precluded under the doctrine of claim preclusion.

DENIED AS TO ALL OTHER ISSUES.

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No. 16SC377  
Court of Appeals Case No. 14CA1869

**Petitioner:**

Colorado Union of Taxpayers Foundation,

v.

**Respondents:**

City of Aspen; Steve Skadron; Adam Frish; Art Daily; Ann Mullins; and Bert Myrin, all in their official capacities as members of the Aspen City Council.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of Issues:

Whether Aspen's levying of a \$0.20 charge on every disposable paper bag provided by a grocer, which was imposed for the primary purpose of affecting customers' behavior and to fund services available to all Aspen residents, is a tax subject to TABOR.

What standard of review a court should apply when deciding whether the levying of a charge by a local government, without voter approval, violates TABOR.

DENIED AS TO ALL OTHER ISSUES.

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No. 16SC399  
Court of Appeals Case No. 15CA34

**Petitioners:**

Friends of the Black Forest Preservation Plan, Inc., a Colorado non-profit corporation; Richard Babcock; Jennifer Babcock; Brenda S. Baldry; Karen R. Coppeak; Remi Y. Gagne; Charlotte R. Gagne; Leif Garrison; James C. Kesser; Sharon Kesser; James A. Orban; Patricia E. Orban; Laura N. Spear; Timothy J. Spear; Wallace J. Stenhaug; Sandra A. Stenhaug; and Margaret J. Whitley,  
v.

**Respondents:**

Board of County Commissioners of El Paso County, Colorado, and Black Forest Mission, LLC, a Wyoming limited liability company.

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

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No. 16SC465  
Court of Appeals Case No. 15CA2130

**Petitioner:**

S.H.,  
v.

**Respondent:**

The People of the State of Colorado,  
In the Interest of Minor Children: L.E., Jr. and A.S.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC562  
Court of Appeals Case No. 16CA32

**Petitioner:**

M.C.,

v.

**Respondent:**

The People of the State of Colorado,

In the Interest of Minor Children: M.S.C., M.V.C., and M.R.C.

Petition for Writ of Certiorari DENIED. EN BANC.

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