

**CASE ANNOUNCEMENTS  
COLORADO SUPREME COURT  
MONDAY, JUNE 20, 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**

**The Supreme Court of the State of Colorado**  
2 East 14<sup>th</sup> Avenue • Denver, Colorado 80203

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**[2016 CO 44](#)**

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**[Supreme Court Case No. 14SC998](#)**  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 13CA1547

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**Petitioner:**

Colorado Motor Vehicle Dealer Board,

v.

**Respondent:**

Jeffrey Freeman.

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**Judgment Reversed**  
*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 14<sup>th</sup> Avenue • Denver, Colorado 80203

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[2016 CO 45](#)

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[Supreme Court Case No. 13SC768](#)  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 11CA156

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**Petitioners:**

Scot B. Hutchins and John H. Gasper,

v.

**Respondent:**

La Plata Mountain Resources, Incorporated.

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**Judgment Reversed**

*en banc*

**JUSTICE COATS** delivered the Opinion of the Court.  
**JUSTICE HOOD** dissents, and **JUSTICE MÁRQUEZ** and **JUSTICE GABRIEL** join in the dissent.

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**The Supreme Court of the State of Colorado**  
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[2016 CO 46](#)

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[Supreme Court Case No. 14SC99](#)  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 11CA1430

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**Petitioner:**

American Family Mutual Insurance Company,

v.

**Respondent:**

Jennifer Hansen.

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**Judgment Reversed**

*en banc*

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**JUSTICE EID** delivered the Opinion of the Court.

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**The Supreme Court of the State of Colorado**  
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[2016 CO 47](#)

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[Supreme Court Case No. 13SC722](#)  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 12CA1261

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**Petitioner/Cross-Respondent:**

Patrick Murray,

v.

**Respondent/Cross-Petitioner:**

Just In Case Business Lighthouse, LLC, a Colorado limited liability company.

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**Judgment Affirmed in Part and Reversed in Part**  
*en banc*

**JUSTICE BOATRIGHT** delivered the Opinion of the Court.

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[2016 CO 48](#)

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[Supreme Court Case No. 14SC469](#)  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 13CA239

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**Petitioner:**

C. Randel Lewis, solely in his capacity as receiver,

v.

**Respondent:**

Steve Taylor.

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**Judgment Reversed**  
*en banc*

**JUSTICE HOOD** delivered the Opinion of the Court.  
**JUSTICE GABRIEL** dissents, and **CHIEF JUSTICE RICE** and **JUSTICE COATS** join in the dissent.

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[2016 CO 49](#)

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[Supreme Court Case No. 15SC345](#)

*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 14CA1733

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**Petitioners:**

Joseph T. Pandy, a/k/a Joseph Pandy Jr., Elizabeth Pandy, a/k/a Elizabeth A. Pandy; The Joseph Pandy Jr. and Elizabeth Pandy Living Trust, a/k/a Joseph Pandy Jr. and Elizabeth A. Pandy Living Trust dated November 10, 2003; Joseph T. Pandy as Trustee, Elizabeth A. Pandy as Trustee,

v.

**Respondent:**

Independent Bank, a Michigan bank.

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**Judgment Affirmed**

*en banc*

**JUSTICE GABRIEL** delivered the Opinion of the Court.

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**PETITIONS FOR REHEARING**

**NONE**

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**CASE ANNOUNCEMENTS  
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**PETITIONS FOR WRIT OF CERTIORARI**

No. 15SC172  
Court of Appeals Case No. 12CA485

**Petitioner:**

Clarence Frazier Banks, III,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED, and the judgment of the Colorado Court of Appeals is vacated. The case is remanded to the Colorado Court of Appeals for reconsideration in light of People v. Ruch, 13SC587, 2016 CO 35 and People v Roberson, 13SA268, 2016 CO 36. EN BANC.

JUSTICE GABRIEL does not participate.

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No. 15SC375  
Court of Appeals Case No. 12CA1418

**Petitioner:**

Sarah E. Meier,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**CASE ANNOUNCEMENTS**  
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No. 15SC462  
Court of Appeals Case No. 14CA670

**Petitioner:**

Scott Gessler, individually and in his official capacity as Colorado Secretary of State,  
v.

**Respondents:**

Dan Grossman, Sally H. Hopper, Bill Pinkham, Matt Smith, and Rosemary Marshall, in  
their official capacities as members of the Independent Ethics Commission; and the  
Independent Ethics Commission.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of Issues:

Whether the Independent Ethics Commission has jurisdiction under the phrase “any  
other standards of conduct” in Colo. Const. art. XXIX, section 5(1) to penalize any  
public employee for violating any Colorado law.

Whether the phrase “other standards of conduct” in Colo. Const. art. XXIX, section  
(5)(1) is unconstitutionally vague.

Whether procedural due process requires pre-hearing notice to explain how laws are  
violated, or may notice simply list laws and reserve the right to add charges after the  
hearing.

JUSTICE GABRIEL does not participate.

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No. 15SC508  
Court of Appeals Case No. 14CA1154

**Petitioner:**

Vallagio at Inverness Residential Condominium Association, Inc.,

v.

**Respondent:**

Metropolitan Homes, Inc.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of Issues:

[REFRAMED] Whether the court of appeals erred by holding as a matter of first impression that Colorado’s Common Interest Ownership Act (“CCIOA”) permits a developer-declarant to reserve the power to veto unit owner votes to amend common interest community declarations.

Whether the court of appeals erred in holding that Colorado’s Consumer Protection Act (“CCPA”) claims are subject to pre-dispute mandatory arbitration provisions where this Court previously held, “We leave open the question of whether CCPA claims might be deemed non-arbitrable,” Ingold v. AIMCO/Bluffs, LLC Apartments, 159 P.3d 116, 122 n.5 (Colo. 2007).

DENIED AS TO ALL OTHER ISSUES.

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No. 15SC722  
Court of Appeals Case No. 13CA1053

**Petitioner:**

Daniel Jesus Lopez,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**CASE ANNOUNCEMENTS**  
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No. 15SC832  
Court of Appeals Case No. 13CA1561

**Petitioners:**

Jennifer Ackerman, David Scheuermann, Forrest Hudspeth, and Adam Kinnard,  
v.

**Respondent:**

City and County of Denver, Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ would grant as to the following issues:

Whether the court of appeals erred in concluding the City and County of Denver did not waive immunity under section 24-10-106(1)(e), C.R.S. (2015), of the Colorado Governmental Immunity Act (CGIA), for injuries caused by boulders that fell from Creation Rock onto petitioners during a concert in the Amphitheater.

Whether the court of appeals erred in concluding the Colorado Supreme Court's decision in Burnett v. State Department of Natural Resources, 346 P.3d 1005 (Colo. 2015), which overruled Rosales v. City & County of Denver, 89 P.3d 507 (Colo. App. 2004), refutes petitioners' assertions that Creation Rock is part of the Amphitheater and a public facility, as a matter of law.

Whether the court of appeals erred in concluding Burnett compels a determination, as a matter of law, that Creation Rock is a natural condition of unimproved property.

Whether the court of appeals erred in concluding Burnett compels a determination that petitioners' location in the Amphitheater does not support a waiver of immunity under section 24-10-106(1)(e), C.R.S. (2015), for injuries caused by the condition of the Amphitheater and Creation Rock.

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**CASE ANNOUNCEMENTS  
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No. 15SC914  
Court of Appeals Case No. 13CA1874

**Petitioner:**

Kristopher Stratton Aona,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 15SC915  
Chaffee County District Court Case No. 2015CV5

**Petitioner:**

John E. Grove,

v.

**Respondent:**

Buena Vista Sanitation District.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 15SC1006  
Court of Appeals Case No. 13CA1617

**Petitioner:**

Erin A. Pendleton,

v.

**Respondent:**

People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**CASE ANNOUNCEMENTS  
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No. 15SC1051  
Court of Appeals Case No. 14CA281

**Petitioner:**

Carol Rademacher,

v.

**Respondent:**

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

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 15SC1058  
Court of Appeals Case No. 14CA15

**Petitioner:**

Rebecca Marie Kelley,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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No. 16SC36  
Court of Appeals Case No. 14CA2353

**Petitioner:**

Ashley Nicole Bradford,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**CASE ANNOUNCEMENTS  
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No. 16SC81  
Court of Appeals Case No. 14CA2030

**Petitioner:**

Dustin Lee James,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Summary of the Issue:

Whether the court of appeals erred by concluding that a thirteenth juror's actual participation in deliberations was harmless error.

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No. 16SC284  
Court of Appeals Case No. 15CA1342

**Petitioner:**

N.W.,

v.

**Respondent:**

The People of the State of Colorado,

In the Interest of Minor Children:

A.L. and H.K.,

and Concerning

O.L.

Petition for Writ of Certiorari DENIED. EN BANC.

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