

**CASE ANNOUNCEMENTS
COLORADO SUPREME COURT
MONDAY, NOVEMBER 13, 2017**

"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

[2017 CO 102](#)

[Supreme Court Case No. 15SC899](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 14CA273

Petitioner:

Forrest Walker,

v.

Respondent:

Ford Motor Company.

Judgment Affirmed

en banc

CHIEF JUSTICE RICE delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

[2017 CO 103](#)

[Supreme Court Case No. 16SC448](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 15CA1869

Petitioner:

Align Corporation Limited,

v.

Respondents:

Allister Mark Boustred and Horizon Hobby, Inc. d/b/a Horizon Hobby.

Judgment Affirmed
en banc

CHIEF JUSTICE RICE delivered the Opinion of the Court.

[2017 CO 104](#)

[Supreme Court Case No. 16SC51](#)
Certiorari to the Colorado Court of Appeals
Court of Appeals Case No. 14CA1914

Petitioner:

OXY USA Inc.,

v.

Respondent:

Mesa County Board of Commissioners.

Judgment Reversed
en banc

JUSTICE HOOD delivered the Opinion of the Court.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

PETITIONS FOR REHEARING

NONE

GRANTED PETITIONS FOR WRIT OF CERTIORARI

Case No. 16SC885, Court of Appeals Case No. 14CA137

Petitioner:

Elvira Vasquez-Castorena,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED as to the following issue:

Whether DUI is a lesser-included offense of vehicular assault DUI.

The judgment of the Colorado Court of Appeals is VACATED, and the case is REMANDED to the Colorado Court of Appeals for reconsideration in light of Reyna-Abarca v. People, Nos. 13SC725, 13SC750, 14SC3, 14SC7, 2017 CO 15. EN BANC.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

Case No. 17SC115, Court of Appeals Case No. 15CA918

Petitioner:

Perfect Place, LLC, a Colorado limited liability company,

v.

Respondent:

R. Parker Semler.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether a garage condominium unit can be subdivided into individual units by painting lines on the garage wall, while ignoring the statutory procedure for subdivision required by the Colorado Common Interest Ownership Act (“CCIOA”), §§ 38-33.3-101 to 402, C.R.S. (2017), and then conveyed as separate condominium units.

Whether the court of appeals erred in declaring a deed void as a “fraudulent conveyance” based upon a misrepresentation to the grantor, where the grantor had not challenged the deed, was not a party to the suit, and had subsequently ratified the deed.

Whether the court of appeals can re-balance equities between the parties in determining the dimensions of a parking space.

[REFRAMED] Whether the court of appeals erred in holding – in a manner that conflicts with Platt v. Aspenwood Condominium Association, Inc., 214 P.3d 1060, 1068 (Colo. App. 2009) – that a prevailing party in any dispute impacted by the principles of CCIOA is entitled to attorney fees.

DENIED AS TO ALL OTHER ISSUES.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC312, Court of Appeals Case No. 15CA724

Petitioners/Cross-Respondents:

Patric J. Lehouillier and LeHouillier & Associates, P.C.,

v.

Respondent/Cross-Petitioner:

Della Gallegos.

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

[REFRAMED] Whether a plaintiff bringing a legal malpractice claim for damages predicated on a lost judgment in an underlying matter must establish that the judgment was collectible.

[REFRAMED] Whether respondent/cross-petitioner Della Gallegos failed to prove that the underlying judgment was collectible.

[REFRAMED] Whether the trial court's judgment should be affirmed because petitioner LeHouillier did not attempt to prove that the underlying judgment was not collectible.

DENIED AS TO ALL OTHER ISSUES.

No. 17SC350, Court of Appeals Case No. 16CA75

Petitioner:

Colorado Custom Maid, LLC,

v.

Respondents:

Industrial Claim Appeals Office of the State of Colorado and Division of Unemployment Insurance.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the court of appeals erred in finding that, for the purpose of assessing unemployment tax premiums under the Colorado Employment Security Act, individuals (cleaners) who performed cleaning services in private homes were employees of the referral service, Colorado Custom Maid, which linked them with clients who are homeowners seeking cleaning services.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC570, Court of Appeals Case No. 16CA704

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Douglas L. Baker.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether a challenge to the amount of presentence confinement credit noted on the mittimus is a claim that the sentence was not authorized by law under Crim. P. 35(a).

Whether the correction of a sentence not authorized by law renews the three-year deadline for collaterally attacking the original judgment of conviction in all respects.

DENIED PETITIONS FOR WRIT OF CERTIORARI

No. 16SC655, Court of Appeals Case No. 12CA321

Petitioner:

Christopher Cox,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC11, Court of Appeals Case No. 14CA2305

Petitioner:

Justin Tyler Schnapp,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

Case No. 17SC35, Court of Appeals Case No. 14CA200

Petitioner:

Billie Thomas Allen,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC56, Court of Appeals Case No. 13CA2069

Petitioner:

Todd Matthew Gregor,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC83, Court of Appeals Case No. 15CA1496

Petitioner:

The People of the State of Colorado,

v.

Respondent:

Shaafic Daahir Elmi.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

JUSTICE BOATRRIGHT would grant to the following issue:

Whether a defendant can claim heat of passion based upon a confrontation precipitated by his own unreasonable conduct.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC151, Court of Appeals Case No. 13CA1085

Petitioner:

David Charles Compare,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC158, Weld County District Court Case No. 16CV30418

Petitioner:

Larry Michael Braden,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC190, Weld County District Court Case No. 16CV30647

Petitioner:

Tammi Daniell,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC197, Court of Appeals Case No. 14CA1033

Petitioner:

Jorge Solano Flores,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC256, Court of Appeals Case No. 15CA847

Petitioner:

Bernd Hoefel,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE GABRIEL would grant as to the following issue:

[REFRAMED] Whether the court of appeals erred in affirming the district court’s finding that the respondent did not demonstrate ineffective assistance of counsel, and affirming the district court’s order refusing to permit Bernd Hoefel, a permanent resident alien, to withdraw his plea agreement, when that plea would result in potential deportation.

No. 17SC282, Adams County District Court Case No. 16CV31354

Petitioner:

Gregory Dale Chamberlin,

v.

Respondent:

The City of Westminster.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC294, Court of Appeals Case No. 14CA2273

Petitioner:

Javious Lashaidre Huguenin,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC299, Court of Appeals Case No. 15CA1900

Petitioner:

Nathaniel Alexander Malcolm,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC314, Court of Appeals Case No. 13CA646

Petitioner:

Daniel Lee Shelby,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC325, Court of Appeals Case No. 13CA733

Petitioner:

Ricky Alexander Scott,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC334, Court of Appeals Case No. 16CA228

Petitioner:

Marcus Lessard,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC362, Court of Appeals Case No. 14CA2184

Petitioner:

Terry Lee Bates, Jr.,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC372, Court of Appeals Case No. 16CA772

Petitioner:

David Dean Goss,

v.

Respondent:

Jeffrey Schulz.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC374, Court of Appeals Case No. 16CA170

Petitioner:

Jerome Sisneros,

v.

Respondents:

Executive Director, Colorado Department of Corrections and Warden, Fremont Correctional Facility.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC399, Court of Appeals Case No. 16CA927

Petitioner:

Maralex Disposal, LLC,

v.

Respondent:

Bruce B. Ferguson, Trustee of the Dara M. Ferguson Trust of 1991.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC405, Court of Appeals Case No. 14CA1447

Petitioner:

Gregory James Wilson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC409, Court of Appeals Case No. 14CA203

Petitioner:

Moses Anthony Heguy, Jr.,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC413, Court of Appeals Case No. 14CA2318

Petitioner:

Christopher Alan Niecko,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC432, Court of Appeals Case No. 14CA2036

Petitioner:

Douglas Keith Murray,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC444, Court of Appeals Case No. 09CA2784

Petitioner:

Aaron Duane Thompson,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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

Whether the court of appeals erred in concluding contrary to other divisions of the court, that the trial court's failure to recognize its discretion to authorize the judicial department to pay for ancillary services under Chief Justice Directive 04-04 is an abuse of discretion; and, whether in this case, that the error resulted in a denial of Thompson's sixth amendment right to continued counsel of choice.

JUSTICE GABRIEL does not participate.

No. 17SC454, Jefferson County District Court Case No. 16CV31871

Petitioner:

Steven Korosec,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC457, District Court, City and County of Denver, Case No. 16CV31360

Petitioner:

Joshua King,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC459, Court of Appeals Case No. 16CA1605

In re the Marriage of

Petitioner:

John Barbosa,
and

Respondent:

Jennifer Barbosa.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC460, Court of Appeals Case No. 16CA1631

Petitioner:

Barbara Johnson,
v.

Respondents:

Industrial Claim Appeals Office of the State of Colorado and Concrete Express, Inc.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC461, Court of Appeals Case No. 16CA242

Petitioner:

Jeffrey M. Kellerhals,
v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC465, Court of Appeals Case No. 16CA652

Petitioner:

Kirk McDonald,
v.

Respondents:

CitiBank N.A., as Trustee for Chase Funding Mortgage Loan Asset-Backed Certificates,
Series 2002-4.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC468, Court of Appeals Case No. 15CA1851

Petitioner:

Samuel Sanchez-Brito,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC473, Court of Appeals Case No. 14CA767

Petitioner:

Billy Ray Rodriguez,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC480, Court of Appeals Case No. 14CA2311

Petitioner:

Earl Danny Hamilton, Jr.,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC483, Court of Appeals Case No. 16CA46

In the Interest of L.G.A., a Child,

Petitioner:

N.T.,

v.

Respondent:

A.N.P.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC489, Boulder County District Court Case No. 16CV31110

Petitioner:

Peter Solon,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

Case No. 17SC493, Court of Appeals Case No. 2016CA1381

Petitioner:

Tyra Summit Condominiums II Association, Inc. a Colorado nonprofit corporation,

v.

Respondents:

Katherine Jean Clancy and Heather Clancy.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC496, El Paso County District Court Case No. 16CV31738

Petitioner:

Kevin Kaaoush,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC502, Court of Appeals Case No. 15CA1444

Petitioner:

Daniel D. DeWild,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE BOATRRIGHT does not participate.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC505, Elbert County District Court Case No. 16CV30021

Petitioner:

Ronald Way,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC506, Court of Appeals Case No. 14CA1600

Petitioner:

Jaray Raymond Trujillo,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC507, Court of Appeals Case No. 16CA1700

Petitioner:

Bernard Kenneth Rivers, Jr.-El,

v.

Respondent:

James Hartmann.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC510, Court of Appeals Case No. 14CA147

Petitioner:

Rebecca Louise Forbes,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC513, Court of Appeals Case No. 15CA1227

Petitioner:

Edward Allen a/k/a Edward Allen Clutts,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC514, Court of Appeals Case No. 14CA1099

Petitioner:

Gilberto Avila-Casanova,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC515, Court of Appeals Case No. 15CA298

Petitioner:

Robert Felix Gonzales,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC517, Montezuma County District Court Case No. 16CV30064

Petitioner:

Evan Silas,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC518, Boulder County District Court Case No. 16CV31143

Petitioner:

Daniel Candler Marcus,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC519, Court of Appeals Case No. 16CA755

Petitioner:

Jason Trevor Brooks,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC522, El Paso County District Court Case No. 16CV31404

Petitioner:

Brandon Bailey,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC525, Court of Appeals Case No. 15CA1240

Respondent:

The People of the State of Colorado,

In the Interest of

Petitioner:

L.C.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC531, Court of Appeals Case No. 16CA141

Petitioner:

Michael Mendenhall,

v.

Respondents:

US Bank National Association as Trustee for JP ALT 2006-52 and HSBC Bank USA, National Association as Trustee for Wells Fargo Home Equity Asset-Backed Securities 2005-1 Trust, Home Equity Asset-Backed Certificates, Series 2005-1.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC533, Court of Appeals Case No. 13CA1832

Petitioner:

Manuel Arias,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC545, Court of Appeals Case No. 16CA708

Petitioner:

James Mark Denman,

v.

Respondent:

Susan Camile Denman.

Petition for Writ of Certiorari DENIED. EN BANC.

No. 17SC547, Court of Appeals Case No. 16CA349

Petitioner:

Daniel John Lyons,

v.

Respondent:

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

No. 17SC680, Court of Appeals Case No. 16CA1315

Petitioners:

M.J.T. and M.T.

v.

Respondent:

The People of the State of Colorado

In the Interest of U.T.

Petition for Writ of Certiorari DENIED. EN BANC.
