

2017SC840 (1 HOUR)

Petitioners/Cross-Respondents:

Department of Revenue of the State of Colorado and Michael Hartman, in his official capacity as the Executive Director of the Department of Revenue of the State of Colorado,

v.

Respondent/Cross-Petitioner:

Agilent Technologies, Inc..

For the Petitioners/Cross-Respondents:

Terence Carley Gill
Noah Clifton Patterson
OFFICE OF THE ATTORNEY GENERAL

For the Respondent/Cross-Petitioner:

Craig B Fields Out of State Counsel
Irwin M Slomka Out of State Counsel
Morrison & Foerster LLP
and
Neil I Pomerantz
SILVERSTEIN POMERANTZ LLP

For Amicus Curiae Council on State Taxation

Jonathan S Bender
Christina Finzel Gomez
HOLLAND HART LLP

For Amici Curiae Darien Shanske, Professor of Law, University of California, Davis School of Law; David Gamage, Professor of Law, Indiana University Maurer School of Law; and Hayes Holderness, Assistant Professor of Law, University of Richmond School of Law

Isaac Lawrence Lodico
GRADUATE TAX PROGRAM STURM COLLEGE OF LAW

Certiorari to the Colorado Court of Appeals, 2016CA849
Docketed: December 5, 2017
At Issue: February 5, 2019

ISSUE(S):

Whether a holding company that has no foreign property, payroll, or operations is exempt from Colorado taxation under the 'Water's Edge' exemption ([C.R.S.] § 39-22-303(8), (12)(c)[, (2017)]).

Whether section 39-22-303(6) authorizes the Department to allocate a domestic holding company's income to its corporate parent to 'clearly reflect' the parent's income and 'avoid abuse.'

Whether the principles of federal conformity require that the federal 'check-the-box' elections made by World Trade's subsidiaries be followed for Colorado income tax purposes, resulting in World Trade being excluded from Agilent's Colorado combined returns under Section 303(8) because, as a result of those elections, more than 80% of World Trade's property and payroll is located outside the United States.

Whether World Trade be excluded from Agilent's combined returns because at least three of the six factors required for combination under Section 303(11)(a) are not satisfied.

2018SC3 (1 HOUR)

Petitioners:

Department of Revenue of the State of Colorado and Michael Hartman in his official capacity as the Executive Director of the Department of Revenue of the State of Colorado,

v.

Respondent:

Oracle Corporation and subsidiaries.

For the Petitioners:

Terence Carley Gill
Noah Clifton Patterson
OFFICE OF THE ATTORNEY GENERAL

For the Respondent:

Michelle Bush
Neil I Pomerantz
Mark Edward Medina
SILVERSTEIN POMERANTZ LLP

For Amicus Curiae Colorado Association of Commerce and Industry

Rachel Poe
Robert Alan Poe
THE POE LAW OFFICE LLC

For Amicus Curiae Council on State Taxation

Christina Finzel Gomez
Jonathan S Bender
HOLLAND HART LLP

**For Amici Curiae Darien Shanske, Professor of Law, University of California, Davis School of Law
David Gamage, Professor of Law, Indiana University Maurer School of Law and Hayes Holderness, Assistant Professor of Law, University of Richmond School of Law**

Isaac Lawrence Lodico
GRADUATE TAX PROGRAM STURM COLLEGE OF LAW

For Amicus Curiae Multistate Tax Commission

Bruce Fort
Multistate Tax Commission
and
Anthony Edward Derwinski
Jeffrey Charles Staudenmayer
RUEGSEGGER SIMONS STERN LLC

Certiorari to the Colorado Court of Appeals, 2016CA1316
Docketed: January 2, 2018
At Issue: February 5, 2019

ISSUE(S):

Whether a holding company that has no foreign property, payroll, or operations is exempt from Colorado taxation under the 'Water's Edge' exemption (§39-22-303(8), (12)(c)).

Whether section 39-22-303(6) authorizes the Department to allocate a domestic holding company's income to its corporate parent to 'clearly reflect' the parent's income and 'avoid abuse.'

2018SC45 (1 HOUR)

Petitioner:

Julian Anastacio Deleon,

v.

Respondent:

The People of the State of Colorado.

For the Petitioner:

Mark David Evans
COLORADO STATE PUBLIC DEFENDER

For the Respondent:

William George Kozeliski
COLORADO DEPARTMENT OF LAW

Certiorari to the Colorado Court of Appeals, 2014CA1920

Docketed: January 18, 2018

At Issue: February 5, 2019

ISSUE(S):

Whether appellate courts review a trial court's failure to give a jury instruction, tendered and repeatedly requested by a litigant, for plain error.

Whether a trial court's introductory comments to unsworn venire members fulfill the constitutional requirement for jurors to be instructed, in an effective manner, that a defendant has the right to not testify and no adverse inference can be drawn from his decision to not testify.

VACATED

2017SC614 (1 HOUR)

Petitioner:

Kyle Brooks,

v.

Respondent:

The People of the State of Colorado.

For the Petitioner:

Jud A Lohnes
OFFICE OF THE PUBLIC DEFENDER

For the Respondent:

Christine Cates Brady
OFFICE OF THE ATTORNEY GENERAL

Certiorari to the Colorado Court of Appeals, 2013CA1750
Docketed: August 31, 2017
At Issue: February 5, 2019

ISSUE(S):

Whether a defendant enters a constitutionally valid guilty plea where the charging document omits the specific intent element of the crime, the trial court recites the defective charging document during its elemental advisement, and defense counsel never advised the defendant of the mens rea element.

Whether, when the trial court fails to advise the defendant of a critical element of the crime to which he pleads guilty, knowledge of the omitted element may be imputed to the defendant based on 'nature of the underlying crime.'

Whether, when the trial court fails to advise the defendant of the specific intent element of the charge to which he pleads guilty, the error is susceptible to review under the constitutional harmless error standard.

2018SA212 (1 HOUR)

Plaintiffs:

Georgina Santich; Amanda Livingston; Rebecca Rail; Amanda Gabriel; Casandra Windecker; Gale Raffaele; Adrienne Axelson; Amanda Shafer; Brandi Campbell; Penny Watkins; Arielle Mansfield; Emily Bachelder; Amrica Terrell; Melanie Tracy; Ashley Wozneak; Laportia Oakley; Alexis Nagle; Janel Anderson; Porscha Green; Johanna Grissom; Karla Martinez; Amy Glines; Chada Mantooh; Ariel Cline; Alena Bailey; Jessica Saulters-Archuleta; Melissa Chavez; Talita Catto; Megan Fitzgerald; Christina Massaro; Andrea Abbott; Nicole Bujok; Rachel Berry; and Kimberly Hale, all individually and on behalf of all others similarly situated;

v.

Defendants:

VCG Holding Corp.; Lowrie Management, LLLP; Denver Restaurant Concepts LP d/b/a PTs Showclub; Troy Lowrie; Michael Ocello; Kenkev, II, Inc. d/b/a PT's Showclub Portland; Indy Restaurant Concepts, Inc. d/b/a PT's Showclub Indy; Glenarm Restaurant LLC d/b/a Diamond Cabaret; Glendale Restaurant Concepts, LP d/b/a The Penthouse Club; Stout Restaurant Concepts, Inc. d/b/a La Boheme; and VCG Restaurants Denver, Inc. d/b/a PT's All Nude.

For the Plaintiffs:

Mari Anne Newman
Darold Wayne Killmer
Liana Gerstle Orshan
Andrew McNulty
KILLMER LANE NEWMAN LLP
and
David H Seligman
Towards Justice

For the Defendants:

Rudy Verner
BERG HILL GREENLEAF RUSCITTI
and
Collin O'Connor Udell
Melisa Hallie Panagakos
Allan Stephen Rubin
Ryan P Lessman
JACKSON LEWIS PC

For Amicus Curiae Colorado Trial Lawyers Association:

Sarah Parady
LOWREY PARADY LLC

For Amicus Curiae Colorado National Employment Lawyers Association and Plaintiff Employment Lawyers Association:

Joan M Bechtold
SWEENEY BECHTOLD LLC

Original Proceeding, District Court, 2017CV00631-RM-MEH
Docketed: August 22, 2018
At Issue: January 16, 2019

ISSUE:

What elements must be established by a nonsignatory to an arbitration agreement in order for the doctrine of equitable estoppel to apply and thereby require a signatory to an arbitration agreement to arbitrate claims brought against a nonsignatory?

2017SC147 (1 HOUR)

Petitioner:

Juvenal Onel Garcia,

v.

Respondent:

The People of the State of Colorado.

For the Petitioner:

Ned R Jaeckle
COLORADO STATE PUBLIC DEFENDER

For the Respondent:

William George Kozeliski
COLORADO DEPARTMENT OF LAW

Certiorari to the Colorado Court of Appeals, 2013CA2117
Docketed: March 1, 2017
At Issue: February 5, 2019

ISSUE(S):

[REFRAMED] Whether the court of appeals erred in holding that an instructional error is not plain under the plain error standard if the erroneous instruction tracks the model jury instruction existing at the time of trial.

[REFRAMED] Whether the court of appeals erred in holding that an instructional error is not plain even though the error was plain at the time of direct appeal.

[REFRAMED] Whether by consolidating the first- and second-degree sexual assault statutes into a single statute in 2000, the General Assembly intended the circumstances specified in section 18-3-402(4), C.R.S. (2017) to no longer require proof of the mens rea 'knowingly' in order to elevate sexual assault to a class three felony.

2017SC595 (1 HOUR)

Petitioner:

Kyree Davon Howard-Walker,

v.

Respondent:

The People of the State of Colorado.

For the Petitioner:

Meredith K Rose
APPELLATE DIVISION - OFFICE OF THE

For the Respondent:

Matthew Shone Holman
John T Lee
OFFICE OF THE ATTORNEY GENERAL

Certiorari to the Colorado Court of Appeals, 2014CA562

Docketed: August 24, 2017

At Issue: February 5, 2019

ISSUE(S):

Whether the court of appeals erroneously held that five trial errors, two instructional errors, and one instance of prosecutorial misconduct did not rise to the level of cumulative error because the court of appeals applied federal cumulative error law for the first time in Colorado, contradicting this Court's precedent.

Whether the court of appeals erred in holding that the improper expert testimony was not plain even though the error was plain at the time of direct appeal.

Vacated - inclement weather

2017SC368 (1 HOUR)

Petitioners/Cross-Respondents:

Jena Griswold, in her official capacity as Secretary of State; Colorado Department of State; and State of Colorado;

v.

Respondent/Cross-Petitioner:

National Federation of Independent Business.

For the Petitioners/Cross-Respondents:

Grant Thomas Sullivan
Leeann Morrill
OFFICE OF THE ATTORNEY GENERAL

For the Respondent/Cross-Petitioner:

Van Aaron Hughes
Emily Renwick Garnett
Christopher Owen Murray
BROWNSTEIN HYATT FARBER SCHRECK LLP
and
Jason R Dunn
UNITED STATES ATTORNEYS OFFICE

For Amicus Curiae Colorado Municipal League

David W Broadwell

For Amici Curiae Colorado Union of Taxpayers Foundation, Pacific Legal Foundation, Tabor Foundation and Goldwater Institute

James M Manley
PACIFIC LEGAL FOUNDATION

For Amicus Curiae The City and County of Denver

David W Broadwell

Certiorari to the Colorado Court of Appeals, 2015CA2017
Docketed: May 25, 2017
At Issue: February 5, 2019

ISSUE(S):

[REFRAMED] Whether the business and licensing exactions authorized by section 24-21-104 are fees or taxes within the contemplation of TABOR.

[REFRAMED] Whether the business and licensing exactions authorized by section 24-21-104 are dictated by a mechanism or formula that pre-dated TABOR, as to which TABOR therefore does not apply.

[REFRAMED] Whether the court of appeals erred in finding that the existence of a disputed issue of material fact precluded summary judgment.

Vacated - inclement weather

2017SC284 (1 HOUR)

Petitioners:

Alliance for a Safe and Independent Woodmen Hills and
Sarah Brittain Jack,

v.

Respondent:

Campaign Integrity Watchdog, LLC.

For the Petitioners:

Robert Stewart Gardner
Laura Anne Gardner
LAW OFFICE OF ROBERT S. GARDNER

For the Respondent:

Matthew Arnold, Pro se

Certiorari to the Colorado Court of Appeals, 2016CA267
Docketed: April 20, 2017
At Issue: February 5, 2019

ISSUE(S):

[REFRAMED] Whether the court of appeals erred in holding that the 'violation' triggering the statute of limitations for campaign-finance enforcement actions could extend beyond the dates adjudicated and penalized in the decision being enforced.

[REFRAMED] Whether the court of appeals erred in applying section 13-17-102(6), C.R.S. (2017), to the attorneys' fees provision of Section 9 of Article XXVIII of the Colorado Constitution.
