

**CASE ANNOUNCEMENTS  
COLORADO SUPREME COURT  
MONDAY, MARCH 20, 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.

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**OPINIONS**

NONE

**PETITIONS FOR REHEARING**

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**2017 CO 11**

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**Supreme Court Case No. 16SC283**  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 15CA1165

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**Petitioner:**

Youngquist Brothers Oil & Gas, Inc.,

v.

**Respondents:**

Travis Miner and the Industrial Claim Appeals Office of the State of Colorado.

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**Petition for Rehearing DENIED. EN BANC.**

COLORADO SUPREME COURT CASE ANNOUNCEMENTS

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[2017 CO 13M](#)

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[Supreme Court Case No. 16SA193](#)

*Original Proceeding Pursuant to C.A.R. 21*  
Pitkin County District Court Case No. 13CV30140  
Honorable Christopher G. Seldin, Judge

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**In Re**

**Plaintiff:**

Richard Goodman,

v.

**Defendants:**

Heritage Builders, Inc., and Ivan Rascon d/b/a American Landscape Company,  
and

**Cross-Claim Plaintiff:**

Heritage Builders, Inc.,

v.

**Cross-Claim Defendant:**

Ivan Rascon d/b/a American Landscape Company,  
and

**Third-Party Plaintiff:**

Heritage Builders, Inc.,

v.

**Third-Party Defendants:**

Bluegreen, Inc.; Columbine Landscape Service Company, Inc.; CTL Thompson, Inc.; Loris and Associates, Inc.; S.D. Construction of Aspen, LLC and/or Scott Davis d/b/a SD Construction; Scott A. Lindenau, Architect, P.C. d/b/a Studio B Architects; Summit Roofing, Inc.; TJ Concrete Construction, Inc.; and Welch Excavating, Inc.

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**Opinion modified, and as modified, Petition for Rehearing DENIED. EN BANC.**

*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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2017 CO 17

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**Supreme Court Case No. 13SC480**  
*Certiorari to the Colorado Court of Appeals*  
Court of Appeals Case No. 11CA1939

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**Petitioner:**

Vanessa Ann Zubiato,

v.

**Respondent:**

The People of the State of Colorado.

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**Petition for Rehearing DENIED. EN BANC.**

*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**GRANTED PETITIONS FOR WRIT OF CERTIORARI**

**No. 15SC770, Court of Appeals Case No. 12CA15**

**Petitioner:**

Nathan Richard Vigil,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the majority of the court of appeals misinterpreted and misapplied this court's precedents in holding, in a published opinion, that the trial court properly refused to excuse Juror C.A. for cause because he did not "clearly evince bias," where Juror C.A. expressed doubt about his ability to be fair and was never rehabilitated, and therefore should have been excused in line with this court's repeated holdings that a challenge for cause should be granted if a juror's impartiality is "in doubt."

Whether the court of appeals misinterpreted People v. Novotny, 2014 CO 18, 320 P.3d 1194, in holding that the erroneous grant of a prosecutor's challenge for cause cannot require reversal unless a biased or incompetent juror sat as a result of the error.

Whether, as a matter of first impression in Colorado, a police officer testifying as a lay witness, not endorsed or qualified as an expert in shoeprint comparisons, is permitted to testify to his opinion that the defendant's shoes "visually matched" photographs of the shoeprints found at the crime scene, based on his own measurements and comparisons, as well as his training and experience as an officer, where the shoeprint comparison experts at CBI concluded the prints were not of sufficient quality for comparison and did not conclusively yield a match.

DENIED AS TO ALL OTHER ISSUES.

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**COLORADO SUPREME COURT CASE ANNOUNCEMENTS**

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**No. 16SC694, Court of Appeals Case No. 14CA2268**

**Petitioner:**

Mario Anaya Lozano,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED as to the following issue: Whether a child forensic interviewer's testimony about why she uses certain interview techniques and protocols is admissible as a lay opinion under CRE 701. 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 Venalonzo v. People, 11SC878, 2017 CO 9. EN BANC.

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**No. 16SC783, Court of Appeals Case No. 14CA921**

**Petitioner:**

Tommy Allen Gow,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari GRANTED. EN BANC.

Whether the court of appeals erred in creating, as a matter of first impression, a search incident to a courtesy ride exception to the Fourth Amendment.

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**COLORADO SUPREME COURT CASE ANNOUNCEMENTS**

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**No. 16SC849, Court of Appeals Case No. 15CA206**

**Petitioners/Cross-Respondents:**

Charles Bewley and Berenbaum Weinshienk, P.C.,  
and

**Cross-Respondents:**

Bruce S. Hellerstein; Perfect Place, LLC; and Bruce S Hellerstein, CPA P.C.,  
v.

**Respondent/Cross-Petitioner:**

R. Parker Semler.

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

[REFRAMED] Whether the court of appeals' ruling, that a non-client condominium association member has standing to sue the association's former attorneys under a third-party beneficiary theory of liability, misconstrued this court's holding in Baker v. Wood, Ris & Hames, P.C., 2016 CO 5, 364 P.3d 872.

Whether the court of appeals' application of "the prior and more lenient 'no set of facts' standard," to conclude that Plaintiff-Respondent's breach of contract claim survived a C.R.C.P. 12(b)(5) motion to dismiss, contravenes this court's ruling in Warne v. Hall, 2016 CO 50, 373 P.3d 588, which adopted the "plausible on its face" standard.

DENIED AS TO ALL OTHER ISSUES.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**DENIED PETITIONS FOR WRIT OF CERTIORARI**

**No. 14SC589, Court of Appeals Case No. 11CA1458**

**Petitioner:**

Medardo Eliezar Perez,

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. 14SC950, Court of Appeals Case No. 09CA1100**

**Petitioner:**

Anthony William Fontanese,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE HOOD and JUSTICE GABRIEL do not participate.

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**No. 14SC958, Court of Appeals Case No. 11CA2096**

**Petitioner:**

Eric Elbert Salas,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 15SC63, Court of Appeals Case No. 11CA2425**

**Petitioner:**

Allen Tranmer,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 15SC116, Court of Appeals Case No. 11CA582**

**Petitioner:**

Jose Ramon Aguayo-Gonzalez,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 15SC777, Court of Appeals Case No. 13CA225**

**Petitioner:**

Gregory Michael Schultz,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 15SC1087, Court of Appeals Case No. 14CA135**

**Petitioner:**

Susan Gail Douglas,

v.

**Respondent:**

The People of the State of Colorado.

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

JUSTICE EID would grant as to the following issues:

Whether the affirmative defense created by the Medical Marijuana Amendment, Colo. Const. art. XVIII, requires marijuana plants to be producing useable marijuana in order to count toward the number of lawful plants that a patient may possess.

Whether the court of appeals erred in holding that the following testimony from two detectives constituted expert testimony: (a) marijuana buds, leaves, and stems are used in making marijuana edibles; (b) the place where marijuana is grown or produced is commonly different than the place where it is distributed; and (c) the plants in the defendant's home were marijuana plants.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC357, Court of Appeals Case No. 13CA401**

**Petitioner:**

Jeffery Lynn Smith,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC487, Court of Appeals Case No. 14CA143**

**Petitioner:**

Miles Felix Colunga,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC614, Court of Appeals Case No. 15CA1854**

**Petitioner:**

Larry McDonald,

v.

**Respondents:**

The Garbage Man and Industrial Claim Appeals Office of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ does not participate.

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**No. 16SC677, Court of Appeals Case No. 13CA1915**

**Petitioner:**

Justin Alexander Jefferson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC689, Court of Appeals Case No. 13CA452**

**Petitioner:**

Jeffrey Carter Neering,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC701, Court of Appeals Case No. 15CA635**

**Petitioner:**

Stewart Title Guaranty Company,

v.

**Respondent:**

RSUI Group, Inc.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC726, Court of Appeals Case No. 14CA707**

**Petitioner:**

Terry Abel Vigil,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC746, Court of Appeals Case No. 13CA919**

**Petitioner:**

Noe Pena,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC756, El Paso County District Court Case No. 16CV272**

**Petitioner:**

Trista Rodriguez,

v.

**Respondent:**

Meadows Mobile Home Park.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC768, Montrose County District Court Case No. 16CV13**

**Petitioner:**

Dr. Lynne La Corte,

v.

**Respondent:**

Timothy Decker.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC795, Court of Appeals Case No. 14CA2022**

**Petitioner:**

Robin Jay Clifton,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC811, Court of Appeals Case No. 15CA723**

**Petitioner:**

Marcos Deleon,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC847, Court of Appeals Case No. 15CA2112**

**Petitioner:**

Christopher Scott McCray,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC848, Court of Appeals Case No. 15CA1712**

**Petitioner:**

Isaac Wayne Thompson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC856, Court of Appeals Case No. 15CA721**

**Petitioner:**

Leroy D. Fresquez,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC890, Jefferson County District Court Case No. 16CV30456**

**Petitioner:**

Dana Gamble,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC893, Teller County District Court Case No. 16CV30044**

**Petitioner:**

Robinson Dick,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC903, Court of Appeals Case No. 13CA1006**

**Petitioner:**

David Martinez,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC909, Court of Appeals Case No. 14CA283**

**Petitioner:**

Alejandro Arenas-Ramos,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE MÁRQUEZ would grant as to the following issue:

Whether inconvenience to the complaining witness constituted prejudice to the prosecution and whether, in any event, such inconvenience properly informed the trial court's discretion, under People v. Brown, 2014 CO 25, 322 P.3d 214 (Colo. 2014), to deny the petitioner his counsel of choice.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC920, Court of Appeals Case No. 16CA1113**

**Petitioner:**

Russell Copelan, MD,

v.

**Respondents:**

John Steele, Inquiry Panel B; Colorado Medical Board; and Karen McGovern, Inquiry Panel B.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC926, Court of Appeals Case No. 13CA1213**

**Petitioner:**

Marcus Henry Weston,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC934, Court of Appeals Case No. 14CA149**

**Petitioner:**

Jesse James Palacio,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC953, Court of Appeals Case No. 14CA2096**

**Petitioner:**

Steven Paul Padilla,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC954, Court of Appeals Case No. 14CA1882**

**Petitioner:**

Steven Patrick Brow,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC955, Jefferson County District Court Case No. 15CV31785**

**Petitioner:**

Jeryl McGaw,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC956, Court of Appeals Case No. 15CA2097**

**Petitioner:**

Patrick Duray Portley-El,

v.

**Respondent:**

Colorado Department of Corrections.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC958, Court of Appeals Case No. 14CA389**

**Petitioner:**

Jason Stephen Robison,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC963, Court of Appeals Case No. 15CA1666**

**Petitioner:**

John R. Yellowboy,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC968, Court of Appeals Case No. 14CA138**

**Petitioner:**

Michael Anthony Rivera,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC969, Court of Appeals Case No. 15CA534**

**Petitioner:**

Darren James Thompson,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC972, Court of Appeals Case No. 15CA1359**

**Petitioner:**

Robert John Doyle,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC981, Court of Appeals Case No. 14CA329**

**Petitioner:**

Meghan Hurley,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC982, Court of Appeals Case No. 15CA1707**

**Petitioner:**

John Patrick Fletcher,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

JUSTICE COATS does not participate.

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**No. 16SC983, Court of Appeals Case No. 16CA1245**

**Petitioner:**

Flora J. McKay,

v.

**Respondents:**

SER Jobs for Progress National, Inc. and Industrial Claim Appeals Office of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC986, Court of Appeals Case No. 15CA301**

**Petitioner:**

Christopher Alan Brown,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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*COLORADO SUPREME COURT CASE ANNOUNCEMENTS*

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**No. 16SC993, Court of Appeals Case No. 13CA2232**

**Petitioner:**

Richard Steven Vevle,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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**No. 16SC996, Court of Appeals Case No. 15CA1954**

**Petitioner:**

Zachery Marco Montoya,

v.

**Respondent:**

The People of the State of Colorado.

Petition for Writ of Certiorari DENIED. EN BANC.

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