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In re Marriage of McCaulley-Elfert Colo.App.,2003.

Colorado Court of Appeals,Div. II.

In re the MARRIAGE OF Debra K. McCAULLEY-ELFERT, Appellee,
and Michael J. Elfert, Appellant.

No. 01CA0767.

March 27, 2003.

Former husband appealed marital dissolution granted by the District Court, Jefferson County, Brian D. Boatright, J., insofar as the judgment contained findings that he abused his stepdaughter. The Court of Appeals, Marquez, J., held that: (1) jurisdiction over stepdaughter was not necessary for court to consider credible evidence of stepfather's sexual misconduct towards her in custody proceedings involving parties' son; (2) court was free to credit wife's testimony over husband's testimony; (3) "supported by credible evidence," in context child custody statute, means no more than a supported by a preponderance of the evidence; and (4) wife's statement during trial regarding lie detector test was admissible.

Affirmed.

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In re Marriage of Burke Colo.App.,2001.

Colorado Court of Appeals,Div. III.

In re the MARRIAGE OF Brigitte BURKE, Appellee,
and Michael B. Burke, Appellant.

No. 01CA0231.

Nov. 23, 2001.

Former husband moved for modification of maintenance payable pursuant to dissolution decree. The District Court, City and County of Denver, Martin F. Egelhoff, J., held that it lacked jurisdiction to hear former husband's motion. Former husband appealed. The Court of Appeals, Jones, J., held that: (1) trial court retained jurisdiction to modify maintenance, and (2) former husband's maintenance obligation could be modified based upon substantial and continuing change of circumstances.

Reversed and remanded with directions.

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In re Marriage of Mohrlang Colo.App.,2003.

Colorado Court of Appeals,Div. IV.

In re the MARRIAGE OF Rebecca K. MOHRLANG, Appellee,
and Bruce A. Mohrlang, Appellant.

No. 02CA0360.

July 31, 2003.

Rehearing Denied Sept. 18, 2003.

Certiorari Denied March 8, 2004.

Former husband appealed from order of the District Court, Morgan County, Douglas R. Vannoy, J., valuing his interest as beneficiary in trust in dissolution action. The Court of Appeals. Graham, J., held that trial court was required on remand to reconsider whether value of former husband's trust interest in stock should be discounted by appropriate rate because of delay in husband's receiving his interest, possibility forfeiture, and other contingencies.

Reversed and remanded with directions.

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In re Marriage of Goodbinder Colo.App.,2005.

Colorado Court of Appeals,Div. IV.

In re the MARRIAGE OF Robert L. GOODBINDER, Appellant,
and Gayle S. Goodbinder, n/k/a Gayle S. Strauss, Appellee.

No. 03CA2111.

June 30, 2005.

Background: In post-dissolution of marriage proceeding, the trial court denied father's bill of costs following his successful appeal of an earlier judgment and sentence for contempt. Father appealed.

Holdings: The Court of Appeals, Loeb, J., held that:

(1) father's bill of costs was not untimely;

- (2) remand was required for specific findings of fact and conclusions of law; and
- (3) mother was permitted to respond to bill of costs.

Order vacated and case remanded.

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In re Marriage of Page Colo.App.,2003.

Colorado Court of Appeals,Div. IV.

In re the MARRIAGE OF Ronald W. PAGE, Appellee and Cross Appellant,
and Debra L. Page, Appellant and Cross Appellee.

No. 00CA1757.

Feb. 27, 2003.

Certiorari Denied May 27, 2003.

Wife appealed from decision of the District Court, Douglas County, No. 97DR0648, Michael C. Villano, J., dividing parties' property and denying her request for attorney fees. Husband cross-appealed. The Court of Appeals, Dailey, J., held that: (1) husband's expert properly was not disqualified, and (2) wife was entitled to maintenance.

Affirmed.

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Osteguin v. Southern Pacific Transp. Co.C.A.10 (Colo.),1998.

United States Court of Appeals, Tenth Circuit.

Juan OSTEGUIN, Plaintiff-Appellant,

v.

SOUTHERN PACIFIC TRANSPORTATION COMPANY, a corporation, Defendant-Appellee.

No. 96-1473.

Feb. 11, 1998.

Order Published May 21, 1998.

Injured employee brought action against employer under Federal Employers' Liability Act (FELA). Following jury verdict in favor of railroad, the United States District Court for the District of Colorado, Alan B. Johnson, Chief District Judge, denied employee's motion for new trial. Employee appealed. The Court of Appeals, Anderson, Circuit Judge, held that: (1) employee suffered no prejudice from any error that occurred when District Court instructed jury as to contributory negligence, rejected employee's tendered instruction regarding assumption of risk, and admitted certain medical testimony, and (2) employee suffered no prejudice from any error that occurred when District Court rejected his tendered jury instruction that railroad knew or should have known it was exposing him to unreasonable risk of harm.

Affirmed.

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Berg v. State Bd. of Agriculture Colo., 1996.

Supreme Court of Colorado, En Banc.

Roger D. BERG, Petitioner/Cross-Respondent,

v.

STATE BOARD OF AGRICULTURE and Public Employees' Retirement Association of Colorado,
Respondents/Cross-Petitioners.

No. 94SC629.

July 1, 1996.

Rehearing Denied July 29, 1996.

Public retiree brought suit against State Board of Agriculture (SBA) and Public Employees' Retirement Association (PERA) on breach of contract and promissory estoppel theories to recover unpaid medical expenses related to heart transplants. The District Court entered summary judgment for public agencies on statute of limitations grounds. The Court of Appeals affirmed. On certiorari, the Supreme Court, Mullarkey, J., held that: (1) estoppel claim was promissory rather than equitable and thus contractual in nature; (2) breach of contract and promissory estoppel claims were not within Colorado Governmental Immunity Act; (3) claims arose at latest when insured received nonconforming policy documents that did not include coverage for heart transplants, not when claim for transplants was denied; and (4) neither agency was self-insurer, such that their conduct in failing to give notice of policy change might have tolled statute of limitations.

Affirmed.

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Bittle v. Brunetti Colo., 1988.

Supreme Court of Colorado, En Banc.

Joseph W. BITTLE, Petitioner,

v.

Anthony G. BRUNETTI, Anthony C. Streno, Frank Capra, Don Eafanti, Jim Duca, Mike Musso, Delbert T. Dardano, Andy Figliolino, Jim Martelli and Robert L. DeRose, individually and doing business as Primo Investments; and John Does I through V, whose true names are unknown,

Respondents.

No. 85SC476.

Feb. 8, 1988.

Pedestrian brought action against owners of property adjoining public sidewalk to recover for personal injuries caused by slip and fall on snow and ice that had accumulated on sidewalk. The District Court, City and County of Denver, John Berks, Jr., J., entered summary judgment in favor of property owners. Pedestrian appealed. The Court of Appeals, 712 P.2d 1112, affirmed. Certiorari was granted. The Supreme Court, Mullarkey, J., held that: (1) property owners owed no common-law duty to pedestrian to keep public sidewalk free of naturally accumulating snow and ice, and (2) snow removal ordinance did not create duty to pedestrian and could not be used as basis for negligence per se.

Affirmed.

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Salazar v. American Sterilizer Co. Colo.App., 2000.

Colorado Court of Appeals, Div. II.

Betty SALAZAR, Plaintiff-Appellee and Cross-Appellant,

v.

AMERICAN STERILIZER COMPANY, Defendant-Appellant and Cross-Appellee.

No. 98CA1630.

March 16, 2000.

As Modified on Denial of Rehearing June 8, 2000.

Sterilizing technician at a hospital brought action against the manufacturer of an ethylene oxide sterilizer, alleging that, as a result of the manufacturer's negligence, she had incurred personal injuries caused by exposure to ethylene oxide from use of the sterilizer. The District Court, Montrose County, J. Steven Patrick, J., entered judgment awarding technician damages. On cross-appeals, the Court of Appeals, Marquez, J., held that: (1) inquiry notice does not trigger the discovery rule; (2) question of

when technician knew of her claim was for jury; (3) instructions and argument to jury concerning the legal effect of its findings were not improper; (4) technician's expert testimony was admissible; (5) denial of manufacturer's motion for a new trial on the ground of technician's allegedly improper argument concerning the pro rata liability statute was not reversible error; (6) technician's closing reference to manufacturer as a big company with very large resources was a reasonable response to the manufacturer's closing argument; (7) there was a reasonable basis for admitting evidence of technician's fear of cancer; (8) pro rata liability statute did not violate technician's substantive or procedural due process rights; and (9) refusal to award all costs claimed by technician was not an abuse of discretion.

Affirmed.

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