

<b>COLORADO COURT OF APPEALS</b> 2 East 14th Avenue, Denver, CO 80203		
In re the Marriage of:  CHARLES BELL, Appellant,  v.  Alyson G. Varvel, f/k/a Alyson Bell., Appellee,		
Charles R. Bell  Pro Se  210 Emery Street Unit 12  Longmont, CO 80501  bell@partnersandbell.com  303-931-6101		
		<b>▲ COURT USE ONLY ▲</b>  Colorado Court of Appeals Consolidated Case Nos. <b>2025CA2070 &amp; 2025CA2198</b> District Court Case No. 2022DR30458 Boulder County District Court
<b>OPENING BRIEF OF APPELLANT</b>		

## I. CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the requirements of Colorado Appellate Rules (C.A.R.) 28 and 32. Including: Word Limits: My brief has 2,645 words, which is not more than the 8,500 word limit

**Preservation:** I discuss if that issue was preserved for appeal. I cite to the page in the Record on Appeal where I raised this issue before the District Court and I cite to where the District Court decided that issue. I understand that my brief may be rejected if I fail to comply with these rules.

/s/Charles R. Bell Pro Se

## **TABLE OF CONTENTS**

I.	CERTIFICATE OF COMPLIANCE	1
II.	TABLE OF AUTHORITIES	3
III.	STATEMENT OF JURISDICTION	4
IV.	ISSUES PRESENTED FOR REVIEW	4
V.	STATEMENT OF THE CASE	5
VI.	SUMMARY OF THE ARGUMENT	6
VII.	STANDARD OF REVIEW	7
VIII.	ARGUMENT	8
IX.	CONCLUSION	17
X.	CERTIFICATE OF SERVICE	19

## II. TABLE OF AUTHORITIES

### Cases

Bd. of Cnty. Comm’rs v. Winslow, 706 P.2d 792 (Colo. 1985) .....	10–11, 13–15
Davidson v. McClellan, 16 P.3d 233 (Colo. 2001) .....	7, 8–9
In re Marriage of Wiggins, 2012 COA 111, 279 P.3d 1 .....	7–8
Montoya v. Connolly’s Towing, Inc., 216 P.3d 98 (Colo. App. 2009) .....	9
People v. Ibarra, 849 P.2d 33 (Colo. 1993) .....	7–8
Karr v. Williams, 40 P.3d 910 (Colo. 2002) .....	13, 15

### Rules

C.A.R. 1(a)(1) .....	4
C.A.R. 28 .....	1
C.A.R. 32 .....	1
C.R.C.P. 11 .....	9–10
C.R.C.P. 60(a) .....	5
C.R.C.P. 60(b) .....	4–10
C.R.C.P. 60(b)(2) .....	4, 7–8
C.R.C.P. 60(b)(3) .....	4, 8–9

### **III. STATEMENT OF JURISDICTION**

This appeal arises from final post-decree orders entered by the Boulder County District Court in Case No. 2022DR30458.

Appellant seeks review of:

- The October 2, 2025 Order denying relief under C.R.C.P. 60 (October 2, 2025 Order (“Exhibit A”)); and
- The November 13, 2025 Order denying additional Rule 60 relief and imposing prospective filing restrictions (November 13, 2025 Order (“Exhibit B”)).

This Court has jurisdiction under C.A.R. 1(a)(1).

### **IV. ISSUES PRESENTED FOR REVIEW**

1. Whether the district court abused its discretion by denying relief under C.R.C.P. 60(b)(2) without applying the required four-part test governing newly discovered evidence.
2. Whether the district court abused its discretion by denying relief under C.R.C.P. 60(b)(3) without applying the clear-and-convincing standard and

determining whether alleged misconduct substantially interfered with Appellant's ability to fully and fairly present his case.

3. Whether the district court erred by failing to conduct a separate analysis under the final paragraph of C.R.C.P. 60 governing fraud upon the court.
4. Whether the district court abused its discretion by imposing prospective filing restrictions without applying governing Colorado standards.
5. Whether the June 12, 2025 maintenance-modification order must be reconsidered if this Court determines that the district court failed to apply the proper Rule 60 analytical framework affecting the underlying financial findings.

## **V. STATEMENT OF THE CASE**

### **A. Nature of the Case**

This appeal concerns whether the district court applied the correct legal standards in denying relief under multiple independent provisions of C.R.C.P. 60.

Appellant invoked:

- Rule 60(b)(2) (newly discovered evidence),
- Rule 60(b)(3) (fraud or misconduct), and

- The final paragraph of Rule 60 (fraud upon the court).

Each provision requires application of a distinct legal framework.

## **B. Course of Proceedings**

Appellant filed a motion for relief under C.R.C.P. 60(b)(2), 60(b)(3), and the final paragraph governing fraud upon the court.

On October 2, 2025, the district court denied relief, concluding that Appellant failed to substantiate his claims. (Exhibit A)

The order does not analyze the elements of Rule 60(b)(2), does not apply the clear-and-convincing standard under Rule 60(b)(3), and does not conduct a distinct fraud-upon-the-court analysis.

On November 13, 2025, the court denied further Rule 60 relief and ordered that no future Rule 60 or fraud-based filings would be accepted unless signed by an attorney pursuant to C.R.C.P. 11. (Exhibit B)

Appellant timely appealed.

## **VI. SUMMARY OF THE ARGUMENT**

This appeal presents a narrow and dispositive question: whether the district court applied the correct legal standards.

Rule 60(b)(2) requires application of a four-part newly discovered evidence test.

Rule 60(b)(3) requires proof by clear and convincing evidence of substantial interference.

Fraud upon the court requires analysis under a distinct doctrine addressing corruption of the judicial process.

The district court's October 2 order applies none of these frameworks.

Because the district court did not apply the required analytical frameworks, remand is required.

A court necessarily abuses its discretion when it fails to exercise that discretion within the framework required by governing law.

The November 13 order compounds that error by converting the October 2 denial issued without application of the governing Rule 60 standards into prospective filing restrictions untethered to the legal framework required by Colorado precedent.

Reversal and remand are required so that the district court may apply the correct legal tests in the first instance.

## **VII. STANDARD OF REVIEW**

A ruling on a C.R.C.P. 60 motion is reviewed for abuse of discretion.

*Davidson v. McClellan*, 16 P.3d 233, 236 (Colo. 2001).

A court abuses its discretion when it misapplies or fails to apply the governing legal standard.

*People v. Ibarra*, 849 P.2d 33, 38 (Colo. 1993).

Interpretation of Rule 60 presents a question of law reviewed de novo.

*In re Marriage of Wiggins*, 2012 COA 111, ¶ 18.

## **VIII. ARGUMENT**

### **I. The Court Failed to Apply the Required Rule 60(b)(2) Analysis**

Relief under Rule 60(b)(2) requires proof that:

1. The evidence was discovered after judgment;
2. Due diligence was exercised;
3. The evidence is material and non-cumulative;
4. The evidence would likely produce a different result.

*In re Marriage of Wiggins*, 2012 COA 111, ¶ 18.

The October 2 order does not analyze these elements. It does not address due diligence, materiality, or probability of a different outcome. Instead, it summarily concludes that Appellant failed to substantiate his claims. (Exhibit A)

This is not a case in which the district court articulated the correct legal standards but reached an unfavorable result. The October 2 order does not apply the distinct analytical frameworks governing Rule 60(b)(2), Rule 60(b)(3), or fraud upon the court. An appellate court may not supply findings or perform first-instance application of those standards under abuse-of-discretion review. Where a trial court fails to exercise its discretion within the framework required by governing law, remand is required so that discretion may be properly exercised in the first instance.

## **II. The Court Failed to Apply the Rule 60(b)(3) Clear-and-Convincing Interference Standard**

Rule 60(b)(3) requires proof by clear and convincing evidence that fraud or misconduct substantially interfered with the movant's ability to fully and fairly present the case.

*Davidson*, 16 P.3d at 236.

The October 2 order does not reference the clear-and-convincing burden, does not analyze substantial interference, and does not apply the Davidson framework. (Exhibit A)

Failure to apply the correct burden and interference standard constitutes abuse of discretion.

### **III. The Court Failed to Conduct a Separate Fraud-Upon-the-Court Analysis**

Fraud upon the court under the final paragraph of C.R.C.P. 60 is analytically distinct from Rule 60(b)(3). It is an extraordinary doctrine directed not at ordinary disputes between litigants, but at conduct that corrupts the judicial machinery itself and undermines the integrity of the tribunal. *Montoya v. Connolly's Towing, Inc.*, 216 P.3d 98, 107 (Colo. App. 2009). Unlike Rule 60(b)(3), which addresses fraud between parties and is subject to specific procedural limitations and time constraints, fraud upon the court preserves the court's inherent authority to remedy egregious misconduct that subverts the judicial process itself.

Because the doctrine is narrow and analytically distinct, a court must determine whether the alleged conduct, if proven, satisfies that independent standard. The October 2, 2025 order does not define fraud upon the court, distinguish it from ordinary fraud under Rule 60(b)(3), or apply the Montoya standard. (Exhibit A.)

A summary denial without application of the governing doctrinal framework constitutes abuse of discretion and requires remand for proper analysis under the correct legal standard.

#### IV. The November 13 Order Imposed Filing Restrictions Without Applying Governing Standards

The November 13 order provides:

“The Court will not accept any further filings by Petitioner that allege fraud or relief sought under C.R.C.P. 60 unless it is filed by an attorney who signs their name pursuant to C.R.C.P. 11.” (Exhibit B)

Colorado courts may impose filing restrictions only after providing notice, an opportunity to be heard, and making specific findings demonstrating abusive litigation conduct. *Bd. of Cnty. Comm’rs v. Winslow*, 706 P.2d 792, 795 (Colo. 1985).

Because prospective filing restrictions limit a litigant’s access to the courts, they must be supported by specific findings and narrowly tailored to address demonstrated abusive conduct. *Id.* Such restrictions may prevent abuse, but they may not foreclose legitimate filings.

The November 13 order does not:

- Apply the *Winslow* framework;
- Make specific findings of abusive litigation conduct;
- Explain why less restrictive measures are inadequate;
- Narrowly tailor the restriction to prevent demonstrated abuse.

Instead, it categorically conditions future Rule 60 access on attorney signature and relies on the October 2 denial as dispositive of all future Rule 60 or fraud-based filings without first ensuring that the October 2 order applied the governing legal standards.

Imposing prospective filing restrictions without the procedural safeguards and findings required by *Winslow* constitutes abuse of discretion.

#### **V. The November 13, 2025 Order Imposed Extra-Rule Filing Restrictions That Exceed Permissible Limits**

The November 13, 2025 order imposed two prospective filing restrictions on Petitioner:

First, the Court ordered Petitioner to review all cited case law through a law school library or paid legal database and to attach physical copies of all case-law authorities relied upon in future filings.

Second, the Court directed that no further filings alleging fraud or seeking relief under C.R.C.P. 60 would be accepted unless signed by a licensed attorney pursuant to C.R.C.P. 11.

Neither restriction is grounded in the Colorado Rules of Civil Procedure, nor are they supported by the findings and narrow tailoring required under Colorado precedent governing filing limitations.

**A. The Mandatory Case-Law Verification and Physical Attachment Requirement Is Not Authorized by Rule or Statute**

No provision of the Colorado Rules of Civil Procedure requires a litigant to:

- Certify the method by which legal research was conducted;
- Personally review authorities at a specific type of library; or
- Attach physical copies of all published case-law authorities cited.

Courts may require proper citation format and may strike filings that fail to comply with procedural rules. However, the imposition of research-verification mandates and mandatory physical case-law attachments exceeds the procedural requirements established by rule.

The order does not identify any rule authorizing such a requirement. Nor does it explain why ordinary remedies such as directing corrected citations or striking non-compliant filings would be insufficient.

A filing restriction must address demonstrable abuse; it may not create new procedural prerequisites untethered to governing rules.

**B. The Attorney-Signature Requirement for Future Rule 60 or Fraud Filings Is Not Narrowly Tailored**

The November 13 order further provides that the Court “will not accept any further filings by Petitioner that allege fraud or relief sought under C.R.C.P. 60 unless it is filed by an attorney who signs their name pursuant to C.R.C.P. 11.”

Prospective filing restrictions are permissible only when supported by specific findings of abusive litigation conduct and only when narrowly tailored to prevent demonstrated abuse. *Bd. of Cnty. Comm’rs v. Winslow*, 706 P.2d 792, 795 (Colo. 1985); *Karr v. Williams*, 40 P.3d 910 (Colo. 2002).

Here, the order does not:

- Conduct a fresh analysis under the *Winslow* framework;
- Identify why lesser restrictions would be inadequate;
- Explain why Rule 60 filings, specifically, warrant categorical attorney supervision; or
- Address whether such a mandate effectively forecloses access to the court for a pro se litigant.

Conditioning access to Rule 60 relief on retention of counsel is not a screening mechanism. It is a categorical barrier to filing.

Rule 60 preserves a court’s authority to grant relief in defined circumstances, including fraud upon the court. A prospective attorney-signature requirement

directed solely at Rule 60 and fraud filings alters the procedural framework established by rule and exceeds permissible tailoring.

### **C. The Restriction Is Further Undermined by the Court’s Jurisdictional Posture**

In the same order, the Court stated that it lacked jurisdiction to adjudicate certain Rule 60 matters due to the pending appeals, while simultaneously relying on the October 2 denial of Rule 60 relief as justification for imposing forward-looking restrictions. A court that disclaims jurisdiction to adjudicate the merits of Rule 60 relief cannot simultaneously impose forward-looking restrictions that condition future access to that same rule.

Jurisdictional incapacity to rule does not confer authority to preemptively bar filings under the rule.

The November 13 order therefore transforms a prior Rule 60 denial—entered without application of the governing Rule 60 analytical frameworks—into a categorical procedural barrier. Because the October 2 order failed to apply the required legal standards, it cannot serve as a lawful predicate for prospective filing restrictions. The resulting barrier is untethered both from Rule 60’s framework and from the narrow tailoring required under Winslow and Karr.

### **D. The Restrictions Exceed Permissible Filing Limitations**

Colorado law permits narrowly tailored restrictions designed to prevent abusive filings. It does not authorize the creation of new procedural prerequisites, research-verification directives, or categorical attorney-signature mandates untethered to rule or statute.

Because the October 2 order failed to apply the governing Rule 60 standards, and because the November 13 order relies on that defective adjudication to impose extra-rule conditions not supported by the findings and narrow tailoring required under *Winslow and Karr*, both orders reflect an abuse of discretion and must be reversed.

## **VI. The June 12, 2025 Maintenance-Modification Order Is Derivative of the Rule 60 Framework Issues**

On June 12, 2025, the magistrate denied Petitioner's request for modification of maintenance, concluding that he failed to establish a substantial and continuing change in circumstances. (Ex. B Magistrate's Minute Order, June 12, 2025.)

That ruling necessarily relied upon the validity of the underlying financial findings and income determinations entered in the permanent orders. Those same financial findings formed the basis of Petitioner's Rule 60 motion alleging newly discovered evidence, misconduct, and fraud upon the court.

If this Court determines that the district court failed to apply the governing legal standards under C.R.C.P. 60(b)(2), C.R.C.P. 60(b)(3), or the final paragraph governing fraud upon the court, then the integrity of the financial findings underlying the maintenance determination must be reconsidered under the proper legal framework.

Appellant does not request this Court to independently reassess the merits of the June 12 order. Rather, if remand is required for proper Rule 60 analysis, reconsideration of the maintenance determination necessarily follows to ensure that it rests upon legally sound findings and properly exercised discretion.

Accordingly, the June 12, 2025 maintenance-modification ruling should be reconsidered on remand if this Court concludes that the Rule 60 analytical framework was not properly applied.

## **IX. CONCLUSION**

Appellant does not ask this Court to reweigh evidence or resolve disputed factual questions. He seeks only remand so that the district court may apply the governing Rule 60 standards in the first instance and reconsider any prospective filing restrictions within that proper legal framework.

Appellant respectfully requests that this Court:

1. Reverse the October 2, 2025 order denying Rule 60 relief;
2. Reverse the November 13, 2025 order imposing filing restrictions; and
3. Remand for application of the correct legal standards under C.R.C.P. 60(b)(2), 60(b)(3), and the final paragraph governing fraud upon the court, and for reconsideration of the June 12, 2025 maintenance-modification ruling to the extent it rests upon the challenged financial findings.

**February 18, 2026**

Respectfully submitted,

/s/ Charles R. Bell

Charles R. Bell, Pro Se

210 Emery Street, Unit 12

Longmont, CO 80501

bell@partnersandbell.com | 303-931-6101

## **X. CERTIFICATE OF SERVICE**

I certify that on **February 18, 2026**, I submitted the foregoing to the Colorado Court of Appeals Clerk's Office for filing in these consolidated appeals. I further certify that on the same date I transmitted courtesy copies by email to counsel of record

**Sharlene J. Aitken**

**saitken@aitkenlawllc.com**

**Sign & Date**

/s/Charles R. Bell

**February 18, 2026**